

## Table of Contents

<u>Document- Comment #</u>	<u>Agency Responding</u>	<u>Subject Matter in Comment</u>	<u>Page</u>
1-1	DPHHS	Assessment and Remediation of Public Hazards/ Public Involvement in Process	24
1-2	EMB/DEQ	MMRA Requirements -Citizens Right to Clean and Healthful Environment	26
1-3	EMB/DEQ	Bond Release Hazard Assessment -Potential On-going Hazard From Mine Site -Rainy Creek Road Sampling -Sampling in 2000 -Air Pollution From the Mine Site -Public Safety Addressed in Reclamation Process -Water Pollution From the Mine Site -Rainy Creek -Carney Creek -Fleetwood Creek -Kootenai River -Risks of Asbestos from the Large Tailings Pile	28
1-4	DLI-MSHA	Industrial Hygiene Asbestos Concerns -Safety Bureau -Workers' Compensation Claims Assistance Bureau	36
1-5	EMB/DEQ	Failure to Address Hazards During Mine Demolition Phase	38
1-6	EMB/DEQ	Tailings Pile Not Reclaimed	40
1-7	HWC/EMB	Ambient Air Monitoring Plans/ Potential for Asbestos to Get to Libby	42
1-8	EMB/DEQ	Amount of Asbestos in Tailings	44
1-9	EMB/DEQ	Tailings Pile Not Reclaimed	46
1-10	EMB/DEQ	Entire Mine Site Still Unreclaimed	48
1-11	EMB/DEQ	Potential for Asbestos Dust Off Dry Portion of Impoundment in Late Summer	50
1-12	HWC/DEQ	Rainy Creek Road Sampling	52

1-13	EMB/DEQ	Update the Amount of Asbestos in Ore and Product from Mine	56
1-14	HWC/DEQ	List of Sites in Community That Need to be Sampled	58
1-15	DPHHS	Address Continuing Hazard From Asbestos in Libby	60
1-16	EMB/DEQ	Trial Record Will be Distributed to Agencies	64
1-17	DPHHS	Health Effects to Those Who Didn't Work at the Mine	66
1-18	DPHHS	Continuing Threat of Asbestos Exposure Today	68
1-19	EMB/DEQ	Extent of Reclamation On the Mine Site -Problems with Plant Growth on Mine Tailings and Waste Rock	72
1-20	EMB/DEQ	RipRap Removal Asbestos Dust Concerns	74
1-21	HWC/DEQ	Testing Water and Fish in the Area	78
1-22	HWC/DEQ	Testing Air, Water, and Soil in the Area	84
1-23	TEAM LEADER	Effects on Tourism and Economy	86
1-24	HWC/DEQ	Sampling in Libby Area to Be Done	88
1-25	EMB/DEQ	MMRA Requirements for Reclamation -Public Hazards From Mine Not Addressed Before Bond Was Released -Public Safety Impacts From Mine Not Addressed Before Bond Was Released -DEQ Failed to Prevent Air Pollution Effects -DEQ Failed to Prevent Water Pollution Effects -DEQ Failed to Address Degradation of Adjacent Lands -Potential for Asbestos Fibers Being Released Through Erosion of Mill Tailing and Other Disturbed Areas -No Waste Rock Samples Were Taken From Tailing Pile or Other Areas to Determine the Concentration of Asbestos Fibers	90
1-26	EMB/DEQ	Continued Sampling and Monitoring to Identify Potential Hazards	94
1-27	TEAM LEADER	W R Grace Involvement in Process	96

1-28	EMB/DEQ	Groundwater Monitoring around Glory Hole	96
1-29	EMB/DEQ	Comparable Stability and Utility -Post Mine Land Use -Forestry -Wildlife -Recreation	98
1-30	EMB/DEQ	Additional Recontouring and Soiling at Mine	102
1-31	EMB/DEQ	Amending Reclamation Plan	102
1-32	HWC/DEQ	Additional Sampling in Libby Area	104
1-33	TEAM LEADER	Why Wasn't Anything Done Before?	106 & 108
1-34	HWC/DEQ	Purpose of Investigation to Identify Possible Risks and Cleanup As Needed	110
1-35	DPHHS	Time/Dose Exposure To Asbestos	112
1-36	DPHHS	Misdiagnosis of Asbestosis in the Past	116
1-37	DPHHS	Libby Population to Be Surveyed Through Interviews, Chest X-rays, and Pulmonary Function Testing	116
1-38	EMB/DEQ	Future Land Use on Old W R Grace Property	118
1-39	EMB/DEQ	Mine Site to be Sampled	118
1-40	TEAM LEADER	Why Wasn't Anything Done Before?	122
1-41	DPHHS	Problem Documenting Deaths in Libby	122
1-42	HWC/DEQ	Sampling of All Areas in Libby	126
1-43	EMB/DEQ	Grandfathering of Bond -Bond Release Concerns	128
1-44	HWC/EMB	Thorough Investigation of Area Needed	130
2-1	EMB/DEQ	General Comment	134
3-1	EMB/DEQ	General Comment	136
4-1	HWC/DEQ	List of Sites in Community That Need to be Sampled	138

4-2	HWC/DEQ	Asbestos Fibers in Libby Continue to be Airborne	138
5-1	EMB/DEQ	MMRA Requirements for Reclamation	140
5-2	EMB/DEQ	Continued Sampling and Monitoring to Identify Potential Hazards	140
5-3	TEAM LEADER	W R Grace Involvement in Process	142
5-4	EMB/DEQ	Groundwater Monitoring Around Glory Hole	142
5-5	EMB/DEQ	Comparable Stability and Utility	142
5-6	EMB/DEQ	Reclamation Plan Should Have Been Changed	144
5-7	HWC/DEQ	Additional Sampling in Libby Area	144
5-8	EMB/DEQ	Air and Water Sampling in Impoundment Area	144
5-9	TEAM LEADER	Why Wasn't Anything Done Before?	144
5-10	EMB/DEQ	Regulatory Oversight at Libby -Reclamation Laws -Water Quality Laws -Air Quality Laws -Mine Health and Safety Laws -State's Inability to Regulation of the Zortman/Landusky and CR Kendall Mines -Amendment of the W R Grace Reclamation Plan -Why Did DEQ Release the Reclamation Bond Without Assessing Public Risk? -What is DEQ Doing to Prevent This From Reoccurring? -Why Was There No Follow Up on the 1982 EPA Study That Identified the Hazard At The Libby Mine Site? -Why Were the State Board of Health Reports Never Revealed to Mine Workers or Legal Action Taken Over the Inadequacy of Mine Protective Measures?	146
6-1	TEAM LEADER	Why Libby Situation Not on State Web Page?	156
7-1	DPHHS	Health Effects to Those Who Didn't Work at the Mine	160
7-2	HWC/DEQ	Testing Water and Fish in the Area	160

7-3	EMB/DEQ	Tailing Pond Stability	162
7-4	HWC/DEQ	Ambient Air Monitoring Plans/Potential for Asbestos to Get to Libby	162
7-5	EMB/DEQ	Revegetation Issue -Tailings Impoundment Removal/ Clean out Rainy Creek and Kootenai River	162
7-6	TEAM LEADER	Don't Release Industry From Liability	162
7-7	HWC/DEQ	List of Sites in Community That Need to be Sampled	162
7-8	EMB/DEQ	Bond Release	162
7-9	EMB/DEQ	Future Land Use on Old W R Grace Property	162
8-1	EMB/DEQ	Bond Release	164
9-1	EMB/DEQ	Reclamation Has Been Successful	166
10-1	EMB/DEQ	Bond Release and More Testing Needed	168
11-1	HWC/DEQ	Ambient Air Monitoring Plans/Potential for Asbestos to Get to Libby	168
11-2	TEAM LEADER	Public Involvement in Process	168
11-3	HWC/DEQ	List of Sites in Community That Need to be Sampled	168
11-4	TEAM LEADER	Prioritize This Project	168
11-5	EMB/DEQ	Bond Release	170
11-6	TEAM LEADER	W R Grace Liability	170
12-1	EMB/DEQ	Testing of Soil At The Mine Site	172
12-2	HWC/DEQ	List of Sites in Community That Need to be Sampled	172
12-3	DPHHS	Case Ascertainment Process and Results to Date	172
13-1	EMB/DEQ	More Reclamation Needed At Mine Site	174

13-2	EMB/DEQ	Future Land Use on Old W R Grace Property	174
14-1	DPHHS	Continuing Threat of Asbestos Exposure Today	176
14-2	EMB/DEQ	Bond Release	176
14-3	EMB/DEQ	Continued Sampling and Monitoring to Identify Risks	178
14-4	EMB/DEQ	Future Land Use on Old W R Grace Property	178
15-1	EMB/DEQ	Bond Release	178
16-1	HWC/DEQ	List of Sites in Community That Need to be Sampled	180
17-1	EMB/DEQ	Reclamation Completed to Date by the Company	182
18-1	EMB/DEQ	Bond Release	186
19-1	EMB/DEQ	Comment on Bond Release	188
20-1	EMB/DEQ	Reclamation Completed to Date by the Company	190

Legend:

EMB: Environmental Management Bureau in DEQ  
 HWC: Hazardous Waste Cleanup Bureau in DEQ  
 DLI: MT Department of Labor and Industry  
 MSHA: Mine Safety and Health Administration  
 DPHHS: MT Department of Public Health and Human Services  
 TEAM LEADER: Tom Ellerhoff

**NOTE:** The reader is cautioned to be aware that all references to tremolite and actinolite in this document specifically describes asbestos forms of these minerals unless otherwise stated. It is important to note that there are non-fibrous or massive forms of these minerals that are not a human health risk, and so are not regulated. This distinction has been a source of confusion to those new to the subject of minerology.

**Note: Typographical errors in the comment letters and public hearing Transcript of Proceedings have been corrected and are noted with parentheses.**

**Document # 1**

1 PERMITTING & COMPLIANCE DIVISION

2 ENVIRONMENTAL MANAGEMENT BUREAU

3

4 In Re: MONTANA DEPARTMENT OF )  
ENVIRONMENTAL QUALITY BOND )  
5 RELEASE HEARING FOR KOOTENAI )  
DEVELOPMENT COMPANY, OPERATING )  
6 PERMIT 00010. )  
)

7 \_\_\_\_\_

8

9

10 TRANSCRIPT

11 OF

12 PROCEEDINGS

13

14

15

16 Public Comment taken in the above

17 matter at the Flathead Community College, 111

18 Lincoln Boulevard, Memorial Gymnasium, Libby,

19 Montana, on December 1, 1999, at 7:00 p.m., before

20 the Facilitator, Sam Hubbard.

21

22

23

24 Reported by Connie S. Costanza, CSR, RPR and

25 Notary Public for the State of Montana, Lake  
County.

1	I N D E X      O F      S P E A K E R S	
2		
3	SPEAKER	PAGE ( * )
4		
5	MARK SIMONICH	6
6	ROGER SULLIVAN	16
7	NORITA SKRAMSTAD	30
8	GAYLA BENEFIELD	32
9	DON JUDGE	36
10	RAY SUFKE	42
11	BONNIE GESTRING	42
12	PAT VINION	49
13	LOUISE KAEDING	50
14	TERRY SMITH	51, 57
15	CHARLOTTE WOODS	54
16	JOHN BENEFIELD	55, 58
17	BILLY BOB BOOTHMAN	56
18	EVA THOMSON	57
19	DON KAEDING	58
20	JOHN RIDER	59
21		
22		
23		
24		
25		

(\*Page Numbers do not match this document pages)



1 P R O C E E D I N G S

2 MR. HUBBARD: May I have your  
3 attention, please. The Montana Department of  
4 Environmental Quality Bond Release Hearing For  
5 Kootenai Development Company Operating Permit 00010  
6 is now open. This is a formal hearing. My name is  
7 Sam Hubbard and I'm serving as the hearing  
8 facilitator.

9 The purpose tonight, primary purpose of  
10 this hearing is to receive comment on the bond  
11 release related to the Kootenai (D)evelopment (Company) site,  
12 but the Department is also prepared to take  
13 testimony or comment on other issues that may be of  
14 concern to you. We are -- or the Department is  
15 videotaping, recording and has a court reporter to  
16 record your comments. The purpose is to make  
17 certain that the Department gets an accurate  
18 record.

19 Another point is that the Department  
20 has extended the deadline for comments on this bond  
21 release until January 1st, 2000, so keep that in  
22 mind. There is a handout that most of you, I hope,  
23 have picked up as you come in. The handout  
24 includes an address where you can send written  
25 comment. The Department will also accept verbal

1 comment by phone or by e-mail, and in addition  
2 there is a comment form on the sign-up table in the  
3 back, and if you would prefer you can fill in those  
4 comment forms tonight and give them to a Department  
5 official here at the hearing. You don't have to  
6 necessarily use the form, but it's there for your  
7 convenience.

8               This hearing was originally scheduled  
9 from seven to nine, and clearly given the  
10 attendance, I would be surprised if we concluded in  
11 that time. In fact, we will stay until everybody  
12 who wishes to speak has had an opportunity to do  
13 so.

14              Let me lay out just a few ground rules  
15 before I get things started. This is a hearing and  
16 not a meeting, and it's a formal hearing, and as a  
17 result we want you to be on target with your  
18 comments. We're going to try to limit the  
19 comments, or generate a guideline we'd like to use  
20 is about three minutes per speaker. We will only  
21 start to enforce that seriously if we see that  
22 we're really going to be running very late.

23              Because it's a formal hearing there  
24 will be no questions taken during the hearing, but  
25 after the hearing various representatives of the

1 Department and EPA and others would be happy to  
2 answer your questions at that time.

3               We would like to make sure that this is  
4 a polite hearing. We want to give everybody an  
5 opportunity to speak. That means that we won't  
6 tolerate interruptions and we also urge you, if you  
7 wish to speak but you feel that your key points  
8 have been made either once or repeatedly and don't  
9 think you can forego your speaking and maybe submit  
10 written comment, that would be fine as well.

11              So, with that, the way the hearing will  
12 proceed is that the Department will present a few  
13 minutes of introductory remarks and then we will  
14 move right to those who have signed up to speak.  
15 We have at the moment 15 who have done so. And  
16 again, we would urge you if you want to speak to  
17 sign up at the back table, and if you decide -- if  
18 you don't think you want to speak now but decide in  
19 the course of the hearing you do, we still would  
20 like you to go back and sign up so we have an  
21 accurate record of those who wish to speak.

22              So without further ado, let me  
23 introduce Mark Simonich, the Director of the  
24 Department of Environmental (Q)uality, and he will  
25 make some introductory remarks.

1                   MR. SIMONICH: Sam, thank you very  
2 much. It is a pleasure for me to be here this  
3 evening. And I know you sitting there looking at  
4 me, sitting in the crowd like that, that you  
5 probably don't believe that. But I had the great  
6 fortune to be able to come to Libby and live here  
7 for a few years back in the 1970s, and tonight is  
8 an opportunity to see a number of people in the  
9 audience and people that befriended me many, many  
10 years ago when I first came here, took me into  
11 their homes and into their families and made me a  
12 continuing part of that family in Libby.

13                   So it really is, it's fun for me to  
14 come back and enjoy the opportunity to listen to  
15 you tonight and particularly hear your concerns.

16                   As Sam indicated, this meeting started  
17 out to be simply a meeting -- a hearing focusing on  
18 the question of whether or not the Department  
19 should release the reclamation bond for the old  
20 vermiculite mine up there, the mine that was  
21 operated most recently by W.R. Grace, the property  
22 that is now owned by the Kootenai Development  
23 Corporation.

24                   By law when we get a request for that  
25 bond release we have to go through a process to try

1 and determine if in fact the relevant parts of the  
2 reclamation plan have been complied with and that  
3 whether or not it is appropriate to release that  
4 bond. We then notice it, and if local individuals  
5 request a hearing, we conduct a hearing. That was  
6 the purpose here. We recognize certainly that once  
7 we published that, we started hearing a lot of  
8 other concerns up here, concerns that I can  
9 honestly tell you I was not aware of, but we want  
10 to respond to those concerns.

11               So although the hearing was to be  
12 focused on the reclamation bond itself for the  
13 mine, we do not intend to try and limit anyone to  
14 speaking only to that tonight. We realize that  
15 there are a number of issues related to the  
16 operation of the facility, the material that was  
17 transported to the screening plant down on the  
18 river and then on into town, how the material was  
19 used in town, what the consequences of that  
20 material being in town is for the people of the  
21 community. And we would be very interested in  
22 hearing from each and every one of you in relation  
23 to what you think that means for the community,  
24 what you particularly see as continuing concerns  
25 about material that might be present in your

1 community so that we can best figure out what we  
2 need to do.

3               Now, to be perfectly honest with you,  
4 we don't have a game plan yet. I can't come up  
5 here and tell you that we've got this great plan  
6 for what we're going to come up and clean up, so we  
7 don't know exactly what we need to clean up yet,  
8 and this is kind of a beginning point. Our  
9 intention is to listen very carefully tonight to  
10 your concerns and take those back and try to begin  
11 to formulate that game plan.

12              Now the U.S. Environmental Protection  
13 Agency came up last year and began sampling because  
14 of the reports that they'd been receiving. They  
15 began a sampling regime. And it's just a tip of  
16 the iceberg; it's just a beginning. They intend to  
17 be here for several more weeks anyway, and I  
18 suspect that it may go on into months, they'll be  
19 doing the sampling. Some sampling can be done over  
20 the winter, some sampling will have to wait until  
21 next summer in dryer conditions to sample, to be  
22 able to get results. And so that's going to be an  
23 ongoing process. You'll be hearing a lot more from  
24 EPA, particularly, and from our (D)epartment as we  
25 begin formulating that plan for sampling as we go

1 forward.

2                   But I'd like to emphasize that, as I  
3 indicated, the hearing that you are interested in  
4 doing on the reclamation is only one aspect of  
5 this. The bond we currently hold, approximately  
6 \$66,000(\$66,700), by law can only be used within that mined  
7 permit area. That's the areas surrounding the mine  
8 that was (were) covered under the permit. If there is  
9 cleanup that has to be done down at the screening  
10 plant or here in town or on those facilities, we do  
11 not use that bond money for that. So when we're  
12 talking about releasing the bond, it's only for the  
13 area of the mine that will be covered with the mine  
14 under the permit.

15                   Don't take that to mean that there is  
16 no authority or no ability to do further cleanup if  
17 it is necessary. We certainly have other authority  
18 under State and under Federal law to work with the  
19 company to get cleanup done once we determine what  
20 cleanup may need to be done. But, again, our first  
21 job is to try and do some sampling, get some  
22 information, and then from there we'll look at  
23 doing the necessary risk assessments to focus our  
24 efforts as specifically as possible within the  
25 community.

1                   There are a number of individuals here  
2   tonight that I would like to take just a minute to  
3   introduce, because a number of those are our staff  
4   members that we want you to become acquainted with  
5   so that as we continue forward in the upcoming  
6   months if you have any questions you'll be able to  
7   put a face with a name and be able to contact the  
8   people that hopefully will be able to get you the  
9   best answers.

10                  I'll start with some of our own staff  
11   members that are here tonight. Jan Sensibaugh.  
12   Jan, if you'd -- they're scattered around the room.  
13   Jan is up here. Jan is the commission(Division)  
14   administrator of our (P)ermitting and (C)ompliance  
15   (D)ivision. Jan's (D)ivision is responsible for all  
16   permitting and compliance activities for regulated  
17   facilities in the state, and a mine like W.R. Grace  
18   is one of those facilities, so that falls under  
19   Jan's direction in her particular (D)ivision.

20                  Warren McCullough is standing at the  
21   back of the room with the blue blazer on. Warren  
22   is a Bureau Chief within Jan's (D)ivision. His  
23   (B)ureau is specifically responsible for mines such  
24   as this, what we refer to as hard rock mines.

25                  Pat Plantenberg, in the back of the



1 room, is a reclamation( ) specialist. He works in  
2 that particular (B)ureau. His job is to make sure  
3 the mine is finished, the reclamation is done, that  
4 we bring it back into an acceptable, stable  
5 condition, and he is the reclamation specialist  
6 specifically involved with the W.R. Grace  
7 facility.

8 Dan Rapkoch is here with us tonight.

9 Dan is the (C)ommunications (M)anager within the  
10 Department. He works specifically in our community  
11 (o)utreach programs trying to help make sure that we  
12 are able to provide the public with whatever  
13 information you're looking for at any point in  
14 time. Any time you don't know who to contact in  
15 the Department, Dan will make sure you get the  
16 right person. Contact Dan.

17 John Constan, I believe is here tonight  
18 as well. John is in our (R)emediation (D)ivision.  
19 That (D)ivision generally deals with abandoned mines  
20 and (S)uperfund repairings. Where there isn't a  
21 specific company that's regulated, permitted out  
22 there where we have responsibilities to clean up,  
23 we often do that under other legal authorities.  
24 John came up here on site last week and  
25 participated in the EPA and sampling that they

1 began, and John will be representing our (D)epartment  
2 particularly in that sampling effort on the  
3 location.

4 I understand that perhaps we have some  
5 of the Lincoln County Commissioners here tonight.  
6 I'd like to recognize them. Rita Windom I spoke to  
7 Rita a few minutes ago.

8 Marianne Roose. Is Marianne here?  
9 Thank you.

10 John Konzen? Back here.

11 And I believe Mayor Berget is here? Up  
12 here in the stands; great.

13 Representative Scott Orr I know is in  
14 the back there in the middle of the room.

15 Senator Crismore we have on the list.  
16 I know Senator Crismore is in Helena today. He  
17 made an appointment for them yesterday to  
18 participate in a briefing with the (G)overnor because  
19 he had a legislative responsibility in Helena today  
20 and could not be here tonight.

21 And Representative Robert(Aubyn) Curtiss is  
22 here as well this evening. Thank you, Robert(Aubyn).

23 We have some individuals with the U.S.  
24 Environmental Protection Agency that I want to  
25 point out, because these individuals are the ones

1     that are responsible right at this point in time  
2     for the sampling efforts that are ongoing. And as  
3     we determine what the work plan may need to be,  
4     what efforts we will take for any cleanup that may  
5     be done, we're anticipating there will be some  
6     joint effort between the State Department of  
7     Environmental Quality and the U.S. EPA, so you  
8     might make sure that you note that the EPA does as  
9     well.

10                 From the Helena office, within this  
11     region -- this is different than many parts.  
12     Within Region Eight there are six states as part of  
13     Region Eight EPA down in Denver. Montana is the  
14     only state that actually has a EPA office based in  
15     that state outside of the (R)egion office, and that  
16     office is in Helena, and John Wardell is here  
17     tonight. John is the director of the Montana  
18     Operations Office for EPA. Along with John from  
19     the Helena office is Wendy -- is it Tom? Thomi.  
20     I'm sorry. I should have known that.

21                 We also have a variety of folks here  
22     from the Denver office as well. Chris Weis is  
23     here. Chris is the toxicologist for EPA. That's a  
24     very critical position as far as we're concerned.  
25     The state does not have a toxicologist, and working

1 with a toxicologist will be important to try and  
2 determine what risks may be present within the  
3 community.

4 Paul Peronard is here. Paul is an (O)n-  
5 (S)cene (C)oordinator with EPA. Paul is the individual  
6 that over the coming months will be the on the  
7 ground person making the decisions for EPA in terms  
8 of what gets done, and he will be one of the key  
9 individuals here with EPA working with you here in  
10 the local community.

11 Dr. Aubrey Miller is here as well.  
12 Aubrey Miller is a (M)edical (C)oordinator with EPA.  
13 Over here; thank you.

14 And -- not with EPA, but with the  
15 federal government is Rebecca Manna, with Senator  
16 Baucus' office, I believe.

17 We also have two other state  
18 individuals here that I'd like to point out  
19 because these are two individuals that may be able  
20 to answer a number of questions for you after the  
21 hearing tonight that you may have that are health-  
22 related.

23 In addition to responsibilities the  
24 Department of Environmental Quality has, the  
25 Department of Public Health and Human Services has

1     separate health-related responsibilities. And so  
2     tonight we have with us Dr. Mike Spence. Mike is  
3     over here. Mike is the (S)tate (M)edical (O)fficer.

4                 We also have Dr. Todd Damrow. Todd is  
5     the (S)tate (E)pidemiologist.

6                 So both of these individuals know a  
7     fair amount about asbestos and the various health-  
8     related issues that surround exposure by asbestos,  
9     so they may be able to answer questions for you  
10    later on.

11                Again, as I indicated, we are very  
12    interested in hearing all of your concerns tonight  
13    as they relate to not only the mine, the mine  
14    operations, but, again, as well, the concerns of  
15    any particular contamination that you believe may  
16    continue to exist or persist in the area  
17    surrounding Libby. That's what we're really here  
18    to listen to. And as Sam said, we're staying here  
19    tonight, so we'll stay as long as you've got some  
20    comments that you want to make for us.

21                Thank you very much.

22                MR. HUBBARD: You'll have to bear with  
23    us tonight. We seem to be having trouble with the  
24    sound system. Can everybody here me? Okay.  
25    Great.

1                   We will now move to our speakers, those  
2   who have signed up to offer comment. Again, we  
3   would appreciate it if you would respect the  
4   speaker's right to speak. Pay them the same  
5   courtesy that you would liked paid to you if you  
6   were speaking. This is a large crowd, so we want  
7   to try to keep the background noise down to a  
8   minimum in order for everybody to be able to hear  
9   the speakers.

10                  We would like to have the speakers come  
11   to the podium to my left here, if you're able. If  
12   not, we have a wireless microphone which might  
13   work, and we'll bring it to you and do our best.

14                  And if any of you are wondering why  
15   it's so cold in here, I share your questions. But  
16   I've been told that somebody is coming to turn on  
17   the heat or turn it up or whatever. So we  
18   apologize for the chill.

19                  So with that, let's move to our first  
20   speaker, Mr. Roger Sullivan.

21                  ROGER SULLIVAN: Good evening. And I'm  
22   delighted to actually have a podium addressing the  
23   audience as opposed to the front table as it so  
24   often does. I appreciate that.

25                  As the facilitator mentioned, my name

1 is Roger Sullivan, and I'm an attorney with the  
2 Kalispell law firm, McGarvey, Heberling, Sullivan,  
3 McGarvey. We represent a number of individuals and  
4 families who have filed lawsuits against W.R. Grace  
5 as a result of asbestos-related diseases that they  
6 are suffering from or have died from. These  
7 diseases include asbestosis, which is a scarring of  
8 the lung caused by the action of inhaled asbestos  
9 fibers; mesothelioma, a rare cancer of the lining  
10 of the lung which is caused almost exclusively by  
11 asbestos exposure in lung cancer which often  
12 accompanies asbestosis. None of these diseases is  
13 curable, so we're obviously dealing with the most  
14 serious of issues -- the matter of life and  
15 death.

16           The issue of responsibility for these  
17 injuries is largely being resolved through our  
18 state court system here in Libby. Simply stated,  
19 it is our position that W.R. Grace is responsible  
20 for these injuries and W.R. Grace denies that it is  
21 responsible, and as I mentioned, it is being  
22 resolved through the state court system where it  
23 properly belongs.

24           But I'm here for a different reason  
25 tonight, which is to participate in the process of

1-1

1 helping to assure that no further harm is occurring  
2 from the tremolite asbestos which originated from  
3 Grace's mining operations up on Vermiculite  
4 Mountain. To meet that goal I think there are  
5 three essential elements: first, a systematic  
6 assessment of potential ongoing health hazards;  
7 second, remediation of any health hazards that are  
8 identified; and third and fundamentally important,  
9 the encouragement of public participation in the  
10 entire process. Simply put, if there's a problem  
11 let's identify it and fix it. If there isn't an  
12 ongoing problem, we can be thankful that no more  
13 are being injured. In either event, this community  
14 can come out of this process with a clean bill of  
15 health and the cloud of fear which comes from  
16 unknowing will be lifted.



**Response: Comment 1-1, Assessment and Remediation of Public Hazards/  
Public Involvement in Process**

The Montana Department of Public Health and Human Services (DPHHS) and the Montana Department of Environmental Quality (DEQ) shares Mr. Sullivan's concern that no further human harm occur from tremolite asbestos originating from mining operations on Vermiculite Mountain. The three elements identified by Mr. Sullivan as being essential for accomplishing this goal have been included in the response action plans advanced by federal health officials from EPA and ATSDR.

Public involvement in the process is addressed in response to Comments 3-1 and 11-2.

1-2

1                   The specific action that's triggered  
2   the hearing is the State's proposal to release the  
3   last remnant of a reclamation bond which was posted  
4   by W.R. Grace on its Libby mining operation. The  
5   bottom line here is that the State's laws require a  
6   reclamation process which assures that there is no  
7   ongoing hazard to human health or the environment  
8   before the bond is released. In fact, the Montana  
9   constitution itself explicitly guarantees to all  
10  Montanans the right to a healthy environment and  
11  recognizes the responsibility of both our public  
12  agencies and our private corporations to honor that  
13  right, especially when it comes to mine  
14  reclamation.

**Response: Comment 1-2, MMRA Requirements**

The DEQ is charged with administering the Metal Mine Reclamation Act (MMRA) and its rules. The MMRA requires a mine site to be reclaimed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area. Because the hazard from tremolite is in breathing the dust, the reclamation of the mine site focused on preventing the resuspension of dust particles, primarily through revegetation. DEQ has invited public comment on these issues during the reclamation bond release process and will address those issues over which it has jurisdiction and has shared other issues with the appropriate agencies.

The DEQ was aware of the hazards from the asbestos to the workers at the mine and mill. A 1987 mine inspection report documents a discussion with mine management about how hazards had been reduced at the mine and mill. Dust hazard to the workers at the active mine or mill was regulated by the Montana Department of Labor and Industry (DLI) (see response to Comment 1-4, Industrial Hygiene Asbestos Concerns) and Mine Safety and Health Administration (MSHA) (see response to Comment 5-10, Mine Health and Safety Laws).

**Citizens' Right to Clean and Healthful Environment**

The Montana Constitution does recognize the citizens' right to a clean and healthful environment. DEQ sought to address public hazards and reclaim the environment throughout the reclamation phase of the mine. For more information, see the response to Comment 1-3, Bond Release Hazard Assessment.

1-3

1 Montana's Department of Environmental  
2 Quality is charged with making sure that all the  
3 mine site reclamation plans provide these measures  
4 to insure public safety and to prevent the  
5 pollution of air and water.

6 The State has previously approved  
7 release of almost the entire reclamation bond  
8 posted by W.R. Grace, so when public notice was  
9 given in September about DEQ's intent to release  
10 the remaining portion of the bond it was expected  
11 that a review of DEQ's file would contain an  
12 insuring analysis of potential health hazards and  
13 their abatement if any were found.

14 Surprisingly, when we opened the  
15 State's bond files and found no analysis of the  
16 potential health risks associated with the asbestos  
17 from W.R. Grace's mine, we became concerned that  
18 the proper analysis had not yet been done before  
19 the bond release occurred.

20 Most notably absent was an assessment  
21 of the potential risks associated with the large  
22 tailings pile which contains billions of pounds of  
23 asbestos. This is surprising since the state of  
24 Montana first began issuing reports to the mining  
25 company in 1956 explicitly warning of the  
26 considerable toxicity of the tremolite asbestos  
27 found in the vermiculite ore.

## **Response: Comment 1-3, Bond Release Hazard Assessment**

### **Potential On-going Hazard From Mine Site**

DEQ saw the reclamation efforts as the answer to any potential on-going hazard from airborne dust. The only dust observed by DEQ inspectors during the reclamation process was 1) along the active roads in the mine areas being used to haul reclamation materials, 2) behind the vehicles being used to conduct the inspections and of course, 3) dust along the Rainy Creek road.

### **Rainy Creek Road Sampling**

Prior to the commencement of the 1999 bond release procedure, the only issue raised by the public in regard to reclamation of the mine site, related to dust emanating from the Rainy Creek road. Lincoln County officials and the mining company developed a sampling plan along the Rainy Creek road in 1991 and 1992 to address this issue. Asbestos fiber levels were below accepted industry standards for the sampling method used (see Attachment 1).

Dust levels from the Rainy Creek road should be higher than from the mine site where the only post-reclamation traffic would be from management activities of the landowners. Therefore, after the Rainy Creek road sampling results demonstrated fiber levels below accepted industry standards for the sampling method used, DEQ issued bond releases for the mine site based on the conclusion that even lower asbestos fiber levels were present. DEQ would not have released the bond if there had appeared to be a continuing risk to the public from the mine site.

### **Sampling in 2000**

In 2000, DEQ will coordinate with local county officials, EPA and other agencies to reevaluate whether the mine site presents a continuing risk to the public. Air monitoring will be conducted in Libby and the mine area to answer public concerns. If past conclusions about the lack of an on-going hazard from the mine site by DEQ are proven wrong, further reclamation will be performed under State and Federal Superfund statutes for the 900 acres already released. For the 125 acres on which DEQ still holds bond, reclamation plans will be updated under Section 82-4-337, MCA.

### **Air Pollution From the Mine Site**

DEQ did not consider the public to be at risk from dust off the mine site as explained above in the Rainy Creek Road Sampling section.

### **Public Safety Addressed in Reclamation Process**

The DEQ addressed public safety of the impoundment with the Montana Department of Natural Resources and Conservation (MDNRC), Dam Safety Section (DSS). In 1992, W R Grace requested a change to the reclamation plan for the impoundment to provide a spillway rather than diverting Rainy Creek around the impoundment. The tailings impoundment is considered a high hazard dam



because of the downstream proximity of the residents at the plant nursery at the confluence of Rainy Creek and the Kootenai River. DEQ produced an Environmental Assessment (EA) and a supplemental EA, and held a public meeting in Libby, in the Fall of 1992, about the change in reclamation plan. DEQ addressed all the public comments and approved the change in the reclamation plan. Responsibility for the impoundment was then transferred to the Dam Safety Section. The bond was released under the Metal Mine Reclamation Act, but that did not leave the impoundment area unregulated. Under the Montana Dam Safety Act, the landowner must maintain an Operation and Maintenance Plan as well as an Emergency Response Plan for the impoundment. These plans must be renewed every five years. The site is inspected annually. The DNRC-DSS 1999 inspection report noted that the impoundment has no serious safety problems (See Attachment 2). DEQ addressed public safety in the bond release process for the impoundment.

### **Water Pollution From the Mine Site**

The mine had been operating in the area since the 1920's. When the MMRA was passed in 1971, W R Grace applied for and received Operating Permit 00010. Rainy Creek was classified as a C-1 stream because of the existing impacts to the drainage from mining before 1971. Carney Creek was also partially impacted by pre-1971 mining, but it was classified as a non-impacted B-1 stream. The operating permit had conditions to help control both historic and future water pollution effects to the drainages (see response to Comment 5-10, Water Quality Laws).

### **Rainy Creek**

In the 1971 operating permit application, W R Grace proposed a tailings impoundment in Rainy Creek to control historic and future impacts to the drainage as well as to limit the amount of asbestos exposure to its employees in the mill (See Figure 1). W R Grace historically had used a dry milling process, and worker exposures to dust had been identified as a problem by 1971, as noted by the commenter. The impoundment was needed to keep the tailings, which contained a large amount of asbestos from washing down the Rainy Creek drainage. During mine operations, Rainy Creek was diverted around the impoundment in a large culvert, when the water was not needed in the milling process. The culvert was removed at closure.

W R Grace originally proposed to route Rainy Creek around the impoundment at closure in a permanent diversion. In 1992, W. R Grace proposed a change in the reclamation plan to route Rainy Creek and one of its tributary streams, Fleetwood Creek through the impoundment and provide the impoundment with a spillway for high flows. As noted above in the section on dam safety (Comment 1-3, Public Safety Addressed in Reclamation Process), the plan was reviewed and approved after environmental assessments were prepared and a public meeting was held in Libby. The only concern raised in the EA process about the spillway was the potential for sediment impacts in Rainy Creek.

Starting in 1991, DEQ did require a water monitoring program, which evaluated the level of asbestiform fibers as well as other water quality parameters in the area including Rainy Creek below the spillway. The water quality data is attached (See Attachment 3). The only water quality parameters that were exceeded in the early 1990's were fluoride, asbestiform fibers, and diesel fuel byproducts (Note: fluoride and diesel fuel were used as milling reagents in small quantities). DEQ did sample the water again in Fall of 1999 before the public hearing on the bond release and found that the level of asbestiform fibers in the impoundment water was the only parameter that exceeded State of Montana WQB-7 water quality standards. Sampling will be conducted again in Spring 2000.





If the sampling in Spring 2000 shows the water in the spillway overflow exceeds water quality standards, DEQ along with the EPA and DNRC-DSS will evaluate a change in the reclamation plan for the impoundment. A permanent diversion may be needed to route Rainy Creek around the impoundment at least during high flows to prevent the spillway from overtopping. This would prevent water in Rainy Creek from exceeding standards for asbestiform fibers.

The old tailings (below the present impoundment) deposited in the Rainy Creek drainage from the 1920's until the impoundment was built in the early 1970's are revegetated. There is a potential that these tailings could be washed into the stream during high flows or intense storm events. This source of tailings will also be sampled in the EPA sampling plan in Spring 2000. If a water quality impact is identified, a plan for the cleanup of the drainage below the impoundment may be needed.

### **Carney Creek**

Water in Carney Creek was partially impacted by construction of waste rock dumps in the drainage before the operating permit was issued in 1971. Even so, the stream was classified as a non-impacted B-1 drainage (See Figure 1). A sediment control pond was constructed above the confluence with the Rainy Creek drainage to control the sediment washing off the waste rock dumps in the mine area. The operating permit, which was issued in 1971, approved a mine life of 100 years and the waste rock dump was approved to fill the entire Carney Creek drainage. W R Grace placed waste rock in the drainage for many years and the stream was further impacted. W R Grace cleaned out the sediment pond regularly over the years. Kootenai Development Company has also cleaned out the pond since they took over the property in 1994.

Kootenai Development Company is responsible for protecting water quality standards in Carney Creek. DEQ and the EPA will be sampling Carney Creek in Spring 2000 and if water quality standards are exceeded a cleanup plan will be developed.

### **Fleetwood Creek**

Fleetwood Creek is a tributary to Rainy Creek above the impoundment dam (see Figure 1) Fleetwood Creek was not impacted in 1971 and is classified as a B-1 stream. Fleetwood Creek has flowed into the impoundment since the wet tailings process and impoundment were put on-line in the early 1970's.

Fleetwood Creek continues to flow into the impoundment and provides part of the flows that maintain the wetland in the impoundment area. Based on sampling scheduled for Spring 2000, DEQ, the EPA and DNRC-DSS will decide whether Fleetwood Creek can continue to flow into the impoundment or if it needs to be diverted around the impoundment

### **Kootenai River**

The Kootenai River below Rainy Creek will also be sampled in Spring 2000 to identify if any water quality impacts exist from the disposal of tailings in the Rainy Creek drainage since the 1920's.



### **Risks of Asbestos from the Large Tailings Pile**

As noted above in the Rainy Creek Road Sampling section, DEQ did not consider the tailings containing asbestos to be a hazard because dust was not observed on the mine site except during active operations (see Attachment 1). Air quality monitoring to be conducted starting in Spring 2000 will document if dust is a continuing problem from the tailings pile. If dust is a continuing problem, then a remediation plan must be developed to address the potential risk.

1-4

1                    Numerous State reports followed  
2 detailing ongoing concerns with the hazardous dust.  
3 Be that as it may, it now appears that one hand of  
4 the State didn't know what the other was doing.

5                    Similarly, several federal agencies,  
6 including the U.S. Public Health Service and the  
7 Mining Enforcement Safety Administration inspected  
8 the mine and reported to the company numerous  
9 asbestos-related health concerns, including the  
10 needs for showers and change rooms so that the  
11 workers didn't bring home the toxic dust. These  
12 reports were also given to the state of Montana.

13                    A 1982 report detailed a host of health  
14 concerns, including a warning that -- and I'm  
15 quoting from the EPA report -- "Asbestos fibers are  
16 easily resuspended by wind and water and can be  
17 redistributed widely. Asbestos differs from many  
18 other pollutants in that it must be considered  
19 relatively stable with respect to decomposition in  
20 the environment. Because of the stability,  
21 asbestos must be regarded as persistent in the  
22 environment with an ultimate fate coming only upon  
23 burial in soils or sediment." The EPA Report went  
24 on to detail a host of transport processes,  
25 including atmospheric transport, which was of  
26 particular concern in an industrialized valley  
27 where eversions are a dominant meteorological  
28 phenomenon.

## **Response: Comment 1-4, Industrial Hygiene Asbestos Concerns**

The Employment Relations Division of the Montana Department of Labor and Industry (DLI) includes two programs, which regulated the W R Grace Vermiculite Mine in Libby. The Safety Bureau (SB) had responsibility for inspecting the mine for compliance with state occupational safety and health codes. The Workers' Compensation Claims Assistance Bureau (WCCAB) received notices of compensation claims filed by employees who experienced work related injuries or occupational diseases.

### **Safety Bureau**

The mine has been closed since 1990. The DLI maintains records for only three years. Therefore, the actual inspection reports have been destroyed. Former and current employees recall that the SB did annual inspections of the Libby mine. These inspections were often done in conjunction with the federal MSHA (Mine Safety and Health Administration) inspections. MSHA regularly sent copies of their inspection reports to the SB (see Attachment 4). The SB did not send copies of their inspection reports to MSHA. State mine inspectors and the federal mine inspectors had on-going contact so the sharing of information was done informally. No formal process for information exchange was in place.

The SB did not exchange reports regarding the Libby mine with other state agencies such as DEQ or DPHHS.

### **Workers' Compensation Claims Assistance Bureau**

The WCCAB receives notification of all claims filed under the Workers' Compensation Act and the Occupational Disease Act. W R Grace's workers' compensation insurance carrier handled all claims processing. The WCCAB provides information on the requirements of the law, monitors compliance with claims processing procedures and provides mediation when a dispute arises between the injured worker and the insurer. The information on workers' compensation claims filed against W R Grace was not shared with any other agency.

These records still exist but are mostly confidential. The WCCAB considers the following accumulation of workers' compensation data as public information: number of claims, type of claims, resolution of claims, inclusive dates of the previous information, insurer's name, and the adjuster's name.

1-5

1                   The EPA also detailed other methods of  
2 asbestos dispersion, including water, and the  
3 report was particularly concerned with the  
4 possibility of waste pile emissions. Still, once  
5 the mine was shut down in 1990 and demolition  
6 began, apparently even the State, the Federal  
7 government nor W.R. Grace assessed potential  
8 ongoing health hazards from the now ceased  
9 operation.

10                   I would like now to address some  
11 parameters for that assessment. As a starting  
12 point we have to understand the mechanisms of  
13 dispersal, the amount of asbestos produced by the  
14 mine in the milling processes, and finally, the  
15 toxicity of this particular form of asbestos.

16                   I'd like to direct our attention, if I  
17 could, to our first photo exhibit. The operation  
18 was basically a mountaintop strip mine. The  
19 shallow overburden was removed -- and this is  
20 showing the top of the mine when it was in  
21 operation. A shallow overburden was removed  
22 revealing underlying vermiculite deposits which  
23 were enormous.

**Response: Comment 1-5, Failure to Address Hazards During Mine Demolition Phase**

It was W R Grace's responsibility to contact the appropriate agencies during the demolition phase of the mine and mill structures to ensure they were demolished according to regulatory standards for asbestos removal. They did not remove asbestos in accordance with regulatory requirements and were fined over \$500,000 by the EPA.

As noted above in Comment 1-3, Bond Release Assessment, DEQ assumed there was not a continuing hazard on the reclaimed mine site.

1                   During the operation of the facility it  
2 was at one time estimated that 80 percent of the  
3 world's vermiculite was coming from this location.  
4 Unfortunately the vermiculite was also laced with  
5 tremolite asbestos.

6                   Until 1974 the ore was milled and  
7 processed in this so-called dry mill. The dry mill  
8 process produced an enormous amount of dust which  
9 you can see being dispersed in a plume here. It  
10 was estimated to contain between 40 and 80 percent  
11 asbestos content in the dust.

1-6

12                   The mill tailings up to the time of  
13 closure in 1990 were deposited in the mill tailings  
14 pile which is located adjacent to the Rainy Creek  
15 Road. You can see the impoundment and the dam that  
16 is at the foot of the mill tailings pile. The mill  
17 tailings pile, if you were to travel up Rainy Creek  
18 Road later this evening or tomorrow, you can still  
19 see, as we'll take a look in just a moment, at the  
20 existing condition. But to some large extent the  
21 mill tailings pile still exists in a similar  
22 state.



**Response: Comment 1-6, Tailings Pile Not Reclaimed**

The tailings deposited on the hillside above the impoundment appear much as they did in 1990 when the mine closed. The reclamation plan for the mine site simply called for seeding the pile to grasses and trees. No soil salvage or replacement was required. Soil salvage was not common practice when the operating permit was approved in 1971. W R Grace did treat the tailings by placing sediment control bulldozer basins (excavations created by a bulldozer blade to produce a depression about a foot deep and as wide as the blade). These shallow depressions were planted with trees and shrubs. Vegetation is growing on the reclaimed tailings although it is slow since the tailings are infertile. Trees planted in the depressions are growing. However, the trees are small and not very discernable from the Rainy Creek road.

Portions of the tailings pile which had not been disturbed for years are covered with trees and have continued to improve over the years. The area receives over 30 inches of precipitation a year. DEQ did not require a revised reclamation plan based on observations of plant growth potential on these old tailings. As stated in the response to Comment 1-3, Bond Release Assessment, DEQ did not consider the reclaimed tailings as presenting a continuing risk to the public. If DEQ had considered the tailings to be a continuing hazard, then the bond would not have been released.

Bond has not been released on the portions of the tailing pile that have continued to erode over the years since mine closure. This 45-acre area is obvious in the photos used at the hearing and can be seen from the Rainy Creek road. Based on the public comments about the potential hazard from eroding tailings, and before the bond is released, DEQ will require Kootenai Development Company to develop a plan to stabilize the eroding tailings. If the air quality monitoring at the site scheduled to begin this spring shows the tailings pile to be a on-going hazard, then DEQ will require additional measures to improve reclamation success such as replacement soil or other covers as needed.

1 I'd like to direct at least some of  
2 your attention to a photo of the mining operation.  
3 You can see, here is where the ore was being  
4 removed. You can see the milling operations here.  
5 And here is Libby, Montana, that's indicated right  
6 up in here.

1-7

7 The EPA's concerns about the possible  
8 air transport of the material could be  
9 well-founded, in that as you can see, there is this  
15 line of transport here. It's estimated to be  
16 approximately six air miles from the mine site, the  
17 tailings site and the town of Libby.

**Response: Comment 1-7, Ambient Air Monitoring Plans/Potential for Asbestos to Get to Libby.**

See response to Comment 1-22, Testing Air, Water, and Soil in the Area, for information on ambient air monitoring plans for 2000 on the mine and in the Libby area.

1-8

1                   The amount of asbestos produced is, at  
2   least to some of us, staggering. From the  
3   company's own numbers we can calculate that 10,000  
4   pounds of asbestos per day were coming out of just  
5   one of the stacks that we were just looking at in  
6   the dry mill. Some 300,000 pounds of asbestos a  
7   day was being deposited into the mill tailings pile  
8   until 1975 when production doubled. Assuming  
9   300,000 pounds a day for 30 years and 500,000  
10   pounds a day of tremolite asbestos being produced  
11   for 15 years, equals, according to my rough  
12   calculations, approximately five billion pounds of  
13   asbestos in the tailings pile that we looked at.  
14   So we're dealing with potentially a large amount of  
15   asbestos in the existing tailings pile.

**Response: Comment 1-8, Amount of Asbestos in Tailings**

DEQ does not disagree with the fact that the tailings pile contains a large amount of asbestos, since the purpose of the wet tailings process was to remove the asbestos and other waste rock from the vermiculite. This wet milling process helped reduce the hazard to the workers in the mill and to users of the product.

As noted in response to Comment 1-3, Rainy Creek Road Sampling, DEQ did not consider the large amount of asbestos in the tailings to be a hazard in its reclaimed state.

1-9

1                   There were several aerial photos that  
2   were taken in October of 1999 that I'd like to look  
3   at now that give us some sense of the current  
4   status of the mine reclamation. The first photo  
5   that I'd like to take a look at -- it's  
6   unfortunate. We're trying to use a fancy projector  
7   system that we were hoping didn't require dimming  
8   of the lights, and I realize that it's very  
9   difficult for you to see. I was hoping that it  
10  would actually project at a much finer resolution.

11                  The first photo here shows the mill  
12  tailings in the course(coarse) rock pile looking to the  
13  south, and here is the tailings pile, and the  
14  course(coarse) rock pile is here. The impoundment is  
15  here. As you can see from the photos taken in 1999  
16  and the photos taken during the operation, at least  
17  on some surfaces of the tailings pile there's not a  
18  substantial amount of difference.

**Response: Comment 1-9, Tailings Pile Not Reclaimed**

See response to Comment 1-6, Tailings Pile Not Reclaimed, for an explanation of the reclamation conducted on the tailings pile since 1990.

1-10

1 Photo number two is from the other side  
2 of Vermiculite Mountain looking to the north, and  
3 again, this photo was taken within the last month  
4 and it gives you some sense of the current  
5 condition of Vermiculite Mountain.



**Response: Comment 1-10, Entire Mine Site Still Unreclaimed**

The rest of the mine site was reclaimed. As stated in the response to Comment 1-6, Tailings Pile Not Reclaimed, the reclamation plan for the mine site consisted of seeding the disturbances at closure to grasses and trees. No soil salvage or replacement was required in the 1971 reclamation plan.

W R Grace did voluntarily start to save soil in the last few years of mine life and this soil was used to reclaim some of the mine areas. Needless to say, the areas that were resoiled look much better than areas reclaimed without soil. Unfortunately, the amount of acres soiled were limited. Because DEQ did not identify an on-going potential hazard from the mine site, as discussed in response to Comment 1-3, Bond Release Hazard Assessment, DEQ did not require soil replacement in all areas. DEQ also considered the fact that the area receives over 30 inches of precipitation, which would help plant growth even on unsoiled areas.

The mine area consists of a series of flat benches and 20-30 foot high walls. The flat benches were resoiled, seeded with grasses, and planted with trees, or not resoiled and just seeded with grasses and planted with trees.

The 20-30 foot high walls were left as rock faces. These rock faces continue to weather each year and are gradually forming angle of repose piles of rock debris against the more competent bedrock rock outcrops.

The waste rock dumps were reclaimed by bulldozing drainage benches across the slope to limit erosion. The slopes were not required to be reduced from the angle of repose to some lesser angle. The waste rock dumps were seeded to grasses and the flat tops were seeded to grasses and trees were planted. The mine site appears much the same in 1990 as it does in 1999 because slope reduction was not required for the waste rock dumps or mine high walls.

The level of reclamation performed by W R Grace exceeded the 1971 reclamation plan requirements. Observations of inactive portions of the mine area that had not been redisturbed as well as some of the mine areas that had been reclaimed earlier and had had the bond released by DEQ, convinced the agency that the mine waste materials will grow plants and eventually stabilize the site with vegetation.

Mine waste materials that contain tremolite are exposed on the surface. DEQ did not consider this exposed tremolite a hazard on the reclaimed mine site as explained in the response to Comment 1-3, Bond Release Hazard Assessment. The air and water sampling to be conducted starting in Spring 2000 will determine whether the mine site presents a continuing risk to the public. If there is a hazard from the mine site, a revised reclamation plan will be developed and implemented. Had DEQ considered the mine site to be a continuing hazard, a revised reclamation plan would have been required under Section 82-4-337, MCA.

1-11

1                   The other two photos we have, one  
2   looking to the southwest towards town, and you can  
3   see the terraces here and the tailings. And  
4   finally, the fourth photo shows the tailings pile  
5   which is right here and the tailings pond which is  
6   right here, the dam. And as you can see, the  
7   impoundment pond is at least over some significant  
8   portion of its surface dry. That will be discussed  
9   further in just one moment.

10                  Certainly it's essential to fully  
11   assess any potential ongoing health hazards from  
12   ground zero, ground zero being here, the tailings  
13   pile which contains potentially millions of pounds  
14   of asbestos, the tailings pond into which finds(fines)  
15   were deposited. And the concern is, of course,  
16   that there could be an ongoing health hazard at  
17   ground zero.

**Response: Comment 1-11, Potential for Asbestos Dust Off Dry Portion of Impoundment in Late Summer**

There is no doubt that the tailings impoundment surface contains asbestos since that was one of the main purposes for its construction. The impoundment was simply reclaimed by seeding the surface. No soil salvage or replacement was required. DEQ did not consider the tailings an on-going hazard, as stated in the response to Comment 1-3, Bond Release Hazard Assessment.

Every year after the impoundment was reclaimed in the early 1990's, the vegetation community has continued to expand and thicken. Rainy Creek and Fleetwood Creek continue to flow into the impoundment to keep the tailings moist and to maintain the wetland communities. During the driest portions of the summer there are some areas of the impoundment that dry out, outside the limit of the vegetated areas. No dust has ever been observed blowing off of these areas by DEQ mine inspectors.

Sampling of the impoundment area to be conducted starting in Spring 2000 will document the potential on-going hazard from the tailings impoundment. If a potential hazard is identified, a reclamation plan change will be required and will be coordinated with DEQ and DNRC-DSS. Had DEQ considered the tailings in the impoundment to be an on-going hazard, then the reclamation plan would have been modified under Section 82-4-337, MCA.

1-12

1                   Independent testing of the soil samples  
2   collected in five locations along Rainy Creek Road  
3   and recorded in the Seattle Post Intelligence(r) here  
4   on November 19, 1999, are described as follows, and  
5   I'm quoting.  "Tremolite asbestos fibers were found  
6   in four of the samples.  All were higher than the  
7   levels considered safe by the EPA and the  
8   Occupational Safety Health Administration.  If  
9   testing of the tailings pile, the pond and the  
10  adjacent area reveal hazardous levels of asbestos,  
11  then a remediation plan must be promptly  
12  implemented to stop the hazard."

### **Response: Comment 1-12, Rainy Creek Road Sampling**

The Department of Health and Environmental Science (DHES) (currently DEQ) was responsible for the initial investigation into environmental concerns in the town of Libby in 1992. On March 31, 1992, DHES conducted an initial site inspection of the W R Grace asbestos mill processing facility.

Inspection of the old processing facility included the collection of two composite surface (1-3") soil samples adjacent to the ball fields and in the mill yard. One composite sample was a subset of five samples taken from the present mill yard and road. The other composite was a subset of four samples taken from various places around the ball fields. The sample collected at the baseball field contained detectable levels (<1%) of tremolite. This was assumed at the time to be a non-hazardous level. The other facility sample was reported to be non-detect.

The road, which runs to the former W R Grace vermiculite mine, was also inspected in March of 1992. Information contained in the site investigation report states that the road (Rainy Day-Jackson Road No. 41) to the mine had been surfaced and re-surfaced by W R Grace several times over the past 30 years with asbestos (tremolite) contaminated mine waste. Before 1980, the road was sometimes treated with waste oil. After 1980, magnesium chloride and water were used to treat the road surface and keep dust to a minimum. After closure of the mine, treatment of the mine road was stopped.

Presently, the road from Highway 37 to the mine entrance gate is open to public access. Behind the gate, access is restricted to the private property, which is owned by Kootenai Development Company.

The road cuts through asbestos-containing material and therefore the road bed contains asbestos. Five composite surface soil samples were collected in 1992. One composite sample was collected in the area of the former mine offices. One sample was collected from the road behind the gate on private property. One road cut was also sampled. In addition, two more samples were taken from below the gate on county property, which included composite samples of the road and road cut. During this sampling, DHES noticed that the public access road below the gate saw no visible asbestos in the road or road cut. However, there was visible evidence of asbestos both on the road and in the road cut behind the gate on private land. Although no asbestos was observed on the public access road below the gate, it was apparent, at the time of the inspection in 1992, that the same type of surfacing material was used on the entire length of the road (see Attachment 1).

The road sample analyses were done with Polarized Light Microscopy (PLM). Of the four samples collected on the mine property, two road cut samples contains fibrous material with "Asbestos Identification and Estimated Quantities" of 70-80% actinolite fibers. The other two road surface samples contained 5-10% actinolite fibers. PLM cannot distinguish between tremolite and actinolite fibers.

DHES did not collect any air samples during the March 1992 inspection. However, according to records, W R Grace collected air samples on mine and mill workers and in buildings throughout the closure process.



See response to Comment 1-3, Rainy Creek Road Sampling, for a discussion of how the potential risk from dust along the road was evaluated in 1991 and 1992 by Lincoln County officials and W R Grace. DEQ considered the hazard from the Rainy Creek road dust to be a greater hazard, than dust from the mine and mill tailings pile. The Rainy Creek road sampling showed there was not a hazard from the road in 1991 and 1992. If sampling in Spring 2000 identifies a hazard from the road, mine or tailings pile, a remediation plan will be developed.

1-13

1                   And I think a couple of comments are in  
2   order in terms of assessing the hazardous level of  
3   tremolite asbestos, because several factors must be  
4   kept in mind. As indicated in various documents to  
5   and from the state of Montana over the years, a  
6   very small percentage of asbestos in the ore can  
7   result in a significant percentage of asbestos in  
8   the air. According to Grace officials and  
9   documents the asbestos content of the ore coming  
10  into the mill for processing was approximately  
11  three percent, yet the airborne dust at various  
12  times was estimated to be between 40 and 80 percent  
13  asbestos.

14                  And I'd like to show -- this is a  
15  magnified -- Many times with electron-microscopy  
16  this is a magnified shot of the tremolite asbestos,  
17  which would, over time, these various fibers would  
18  break off and cause exposure. So what we're  
19  dealing with here is that a configuration of this  
20  particular mineral that becomes easily airborne and  
21  can remain suspended for an extended period of  
22  time.



**Response: Comment 1-13, Update on Amount of Asbestos in Ore and Product  
From the Mine**

In 1990, the Montana Department of Commerce put together a promotional brochure with the help of the mining company and Lincoln County officials trying to help sell the mining operations (See Attachment 5). In that document, tremolite content of the ore was listed as 5-7%. The tremolite content of the mill concentrate had been reduced to 1.27%. The finished product could contain up to 1% tremolite by weight. The respirable portion of the tremolite in the concentrate was determined to be 50 parts/million (ppm).

The investigation currently being conducted in the Libby area and elsewhere will have to determine whether these levels of tremolite and respirable fibers in the finished products are unsafe and create a public risk.

1-14

1                   Unfortunately, although the percentage  
2   of asbestos decreased over time in W.R. Grace's  
3   concentrate, it was never entirely removed from the  
4   ore. So it's important to assess sites around the  
5   community where the ore was located. And we know  
6   that we have river storage down on both sides of  
7   the Kootenai River, ore storage and transport  
8   facility. Likewise, close to town on the other  
9   side of the underpass where they had the expanding  
10  plant in the old ore storage in town is also, I  
11  think, necessary and prudent to inspect at that  
12  area.

13                  Finally, a number of people have used  
14  vermiculite in their homes as insulation and in  
15  their gardens to loosen the hard head (pan) soil. If in  
16  doubt, these areas should also be tested.

17                  Some may ask, why the abundance of  
18  caution, and so I'd like finally to just briefly  
19  address the toxicity of tremolite asbestos.

### **Response: Comment 1-14, List of Sites in Community That Need to be Sampled**

On November 22, 1999, the EPA and the DEQ met with Libby and Lincoln County elected officials to discuss community concerns and potential sources of contamination. From those discussions, the following list of potential sources or areas of concern was developed.

#### **Mine Site:**

- Glory Hole
- Former area of mine facility and mills
- Coarse tailings pile
- Fine tailings pile (impoundment area) including water and aquatic life samples
- Mine access road (Rainy Day-Jackson Road 41)
- Rainy Creek (water and historic tailings along the creek)
- Fleetwood Creek
- Carney Creek
- Kootenai River below the confluence with Rainy Creek

#### **Processing Areas:**

- Screening Plant (currently a private plant nursery and residence)
- Railroad Loadout Facility (across the Kootenai River from the Screening Plant)
- New Subdivision next to the railroad loading facility
- Export Plant (currently owned by the City of Libby and used by a private business)
- Export Plant located in an operating lumber facility

#### **Residential Homes:**

- Insulation in the walls and attics
- Interior air
- Interior surfaces (i.e., rugs, furniture, tables, etc.)
- Lawns and driveways
- Gardens

- Baseball fields adjacent to the export plant owned by the city
- Ambient air in the town of Libby
- Ambient air emissions from the former mine site and Rainy Creek road

1 Although all varieties of asbestos are dangerous,  
2 tremolite asbestos found in W.R. Grace's mine was  
3 proven to be among the most toxic forms of the  
4 deadly mineral.

5 Dr. Alan Whitehouse is a Spokane lung  
6 specialist who has treated hundreds of people from  
7 Libby suffering from asbestos exposure, and he has  
8 conservatively estimated that 88 former mining  
9 employees have already died from the asbestos-  
10 related diseases and a number of more will die.

11 However, Dr. Whitehouse has also  
12 diagnosed a number of wives and children of mine  
13 workers with asbestos diseases. These family  
14 members' exposures to asbestos often existed of  
15 dust brought home on their father's clothes.  
16 Other members of this community have become  
17 diseased by playing on ore piles down by the river  
18 as children and perhaps were spread in yards.

19 So we know that in the past injurious  
20 asbestos contamination has occurred in the Libby  
21 community. The open question is whether there  
22 continues to be a health hazard. And I think I'm  
23 speaking certainly on behalf of all of my clients  
24 when I say that no one will be happier than my  
25 clients if these tests turn up negative and Libby  
26 is given a clean bill of health. These people have  
27 experienced first-hand the horrible diseases that  
28 this deadly dust can cause.

1-15

**Response: Comment 1-15, Address Continuing Hazard from Asbestos in Libby**

Health officials from the DPHHS, including the State Medical Officer, Dr. Michael Spence, have been in consultation with Dr. Whitehouse. Additionally, Lincoln County Health Officer Dr. Brad Black and Dr. Spence have traveled to Spokane to meet with Dr. Whitehouse to review case records, and to discuss the issue of possible continuing threats to human health in the Libby area.

See response to Comment 1-1, Assessment and Remediation of Public Hazards, and response to Comment 1-14, List of Sites in Community That Need to be Sampled, for information on the type and location of sampling to be done to address the potential continuing hazards from asbestos in Libby.

1                   On the other hand, if tests come up  
2     positive then they, as well as I hope all of us in  
3     this room, will stand prepared to insist that all  
4     of the hazards are eliminated. None of us wants to  
5     see another person injured by the asbestos. All of  
6     us want to give Libby a clean bill of health.

7                   Thank you.

8                   Can I just say that, just in the unique  
9     posture that we're in, as I mentioned, we have a  
10    number of lawsuits still pending in the State  
11    District Court in Libby, Montana, and I know that  
12    there are a number of plaintiffs in the room this  
13    evening. And I would just urge those who still  
14    have lawsuits pending to limit comments, if you're  
15    making them, to your concerns for ongoing health  
16    hazards and the need for an assessment, if that's a  
17    concern of yours, and please not to discuss the  
18    merits of your particular lawsuits.

19                  And I would thank you.



1-16

1                   And I am going to file as a record of  
2   this proceeding a transcript from the last jury  
3   trial that was done. I think that both the DEQ and  
4   the EPA would be interested in the transcript and  
5   all of the exhibits, and so I will make them of  
6   record and available to both.

7                   Thank you.

8                   MR. HUBBARD: Thank you, Mr. Sullivan.

9                   Our next speaker -- and I apologize in  
10   advance if I don't get the name quite right, but  
11   Norita Skramstad.



**Response: Comment 1-16, Trial Record Will Be Distributed to Agencies**

DEQ will distribute the trial record to the EPA, DPHHS, and DLI-MHSA.

1 NORITA SKRAMSTAD: A lot of you know  
2 who I am. I am Ms. Norita Skramstad. I've lived  
3 here since 1954. My husband went to work for  
4 Zonolite, not W.R. Grace. Grace bought them out  
5 two years later. At the time my husband went to  
6 work for Zonolite we had two small babies, two and  
7 three. And at the same time he went to work there,  
8 in fact, 40 years ago this month I had a new baby.

9 Two of those older children now have it. So far  
10 the girl that was born at that time, she is fine,  
11 but how much longer she will be, we don't know.

12 And contrary to a lot of people it is  
13 not just older miners and their families that have  
14 this. Some of the younger guys that worked the  
15 mines in their later years also have it and they  
16 are in their mid 40s. Our children now are like in  
17 their 40s. There is a lot of people that did not  
18 go to work at the mines, they have no connection to  
19 the mines; they have it also.

20 Our biggest goal in my position and a  
21 lot of mothers, wives, grandparents, we hope to  
22 heck not one of you other people have to have  
23 somebody, a doctor say your child has asbestosis.  
24 It's a death sentence. There's nothing they can do  
25 about it. And if they're young -- you've got a  
26 four-year-old -- might make it ten years. You  
27 don't know.

1-17

**Response: Comment 1-17, Health Effects to Those Who Didn't  
Work at the Mine.**

The issue of non-occupational asbestosis among residents of Libby is of serious concern to the health workers at the local, state and federal level who are currently working in the Libby area. Medical testing and epidemiological studies are being planned in order to clearly define the relationships between illness and various occupations and past activities among the people in Libby.

1-18

1                   But this is one thing that has been our  
2 biggest concern, is the children of this town. The  
3 first place, asbestosis doesn't come to life, as a  
4 rule, maybe 10, 20, 30, 40 years, and it's dormant  
5 and then it springs its ugly head up and it's full-  
6 blown. That's why our concern is in Libby, is  
7 making sure this town is clean of it. This is our  
8 only hope, because the children that are here now,  
9 we have no idea if they have it or not. It will be  
10 a long time before we know. But if we can get  
11 somebody in here, give the town a clean bill of  
12 health, all we'll have to do is hope and pray the  
13 children and the parents go to heaven, will not get  
14 it.  
15                   Thank you.

**Response: Comment 1-18, Continuing Threat of Asbestos Exposure Today**

Libby citizens, elected officials from Libby and Lincoln County, the DEQ, DPHHS, EPA and the Agency for Toxic Substances and Disease Registry (ATSDR) are working together in a comprehensive and scientifically sound fashion to answer these questions and to assure the public that their health will be protected in the future.

1                   MR. HUBBARD: Our next speaker is Gayla  
2 Benefield.

3                   GAYLA BENEFIELD: Hello, everyone. I'd  
4 like to start by reading just a small excerpt from  
5 an article that appeared in the Western News  
6 October 15th, 1993. It says, "Freshly fallen snow  
7 shimmers on the morning sun at 94,000-acre Cabinet  
8 Mountain wilderness area. Across the valley is the  
9 town of Libby, a large branch inhabitator of (branched antler) bull  
10 elk right across the mountain below the summit of  
11 Vermiculite Mountain. 20 to 30 elk usually graze  
12 in this vicinity of lush grass, which was once a  
13 tailings pile, now reclaimed. Near the summit,  
14 deer and elk roam on slopes now covered with grass  
15 and trees where heavy equipment once dug  
16 vermiculite from the hillside where trucks hauled  
17 the ore down the hill to the mill. 'That's where  
18 my office used to be,' Alan Springer said, 'until  
19 three years ago the metal(hill) also was the site of a  
20 ten-story mill or a storage shed and other  
21 buildings associated with the mining operation.  
22 They've now been dismantled. There's no evidence  
23 that they ever once existed.'

1                   Where the tailings pond once was  
2   there's now a green meadow. The dam, which once  
3   held back water and sediment, now holds back the  
4   dirt, grass and trees that was selected by soil  
5   scientists to conform with the area soils  
6   topography.

7                   And finally, the dam itself has been  
8   modified in order to withstand the worst case  
9   scenario floods. 'I'm proud of what we did here,'  
10   Springer said. 'The land will be used for  
11   something else, but mining probably will never  
12   occur there again even though there have been  
13   sufficient reserves to last another century.'

14                  He finished with, 'We have proven that  
15   a mine can exist in scenic areas,' Springer said,  
16   'and that we can succeed in closing it, removing it  
17   from the face of the earth.'"

18                  They received "In Pursuit of  
19   Excellence" award for the reclamation that they did  
20   for the closure of the mine in 1993.

1-19

1 I drove up there last fall. I was  
2 shocked. I drove up, I saw the tailings pile, I  
3 saw the pond. It did not match everything else.  
4 It was nothing but a great big tailings pile going  
5 into the water.

6 I called the DEQ about it. I saw that  
7 a bond was being released. I called the DEQ and  
8 they had little or no information on it. I called  
9 the EPA. There again, they had little or no  
10 information on it at all. I asked for the DEQ  
11 report on it. I read the report. The report was  
12 full of inconsistencies. What I read you right  
13 here is basically what the report said. What is  
14 actually up there is entirely different.

15 I did some investigation about it. I  
16 found out nine years ago they had planted trees all  
17 over the tailings pile, and in nine years that the  
18 trees grew, the trees are maybe this high. What's  
19 the matter?



**Response: Comment 1-19, Extent of Reclamation on the Mine Site**

See the response to Comment 1-6, Tailings Pile Not Reclaimed, and Comment 1-10, Entire Mine Site Still Unreclaimed, for an explanation of the amount of reclamation conducted on the mine site since 1990.

**Problems with Plant Growth on Mine Tailings and Waste Rock**

The plants growing on the coarse tailings pile grow slowly initially because the materials are coarse textured and infertile. The fine tailing materials washed down into the impoundment. The water holding capacity of the coarse tailings is less than the fine tailings materials. The vermiculite and tremolite in the tailings are infertile but not toxic to plants. Fertilization of the tailings pile would help, but it would have to be properly implemented to prevent impacts to water quality. Plant growth in the impoundment area with the additional fine sized particles provides extra water holding capacity and plant growth is enhanced. Eventually, as the plant growth medium develops organic matter, nutrient cycling will be enhanced and plant growth will increase.

The growth on the mine area and waste rock is limited for the same reasons as on the tailings. As a result of the textural and fertility limitations, plant growth is slow. DEQ would not have released the bond if the agency had believed the developing plant community on the site created on on-going hazard.

1-20

1 I started in checking and I found out  
2 that they had been hauling riprap from up there.  
3 They had a cord designated within the pond area.  
4 And after the 1996 floods they started hauling  
5 riprap from the top of the mountain.  
6 I talked to the man that drilled up  
7 there. He drilled and he blasted. And I talked to  
8 the loader operator and I talked to the truck  
9 drivers. No one in 1996 told those men that there  
10 was a danger because of the dust that was up there.  
11 But they told the mill the mine had shut down,  
12 therefore there wouldn't be a danger. The same  
13 danger lurked up there that lurked up there 20  
14 years ago. These men were not told. They brought  
15 the riprap back into town. This alarmed me.

**Response: Comment 1-20, RipRap Removal Asbestos Dust Concern**

DEQ was asked to approve the removal of riprap from the mine site to help with stabilizing roads, streams and riverbanks that were damaged in the 1996 flooding. The syenite rock outcrops in the mine area contained the best materials for the job. DEQ reviewed the request and approved the reclamation plan, which consisted of reseeding the disturbed areas when riprap removal was completed.

DEQ did not require any special mining practices for the removal of this riprap. DEQ assumed that the new owners who purchased the property from W R Grace were aware of the precautions W R Grace used when they were mining the property to control dust. These site specific dust control practices used during the mine operations were developed by the Montana Department of Labor and Industry and Mine Safety and Health Administration with the mining company over the years to address the site specific risks that were present on the mine site.

DEQ also requires all mine operations to use Best Management Practices to control dust during mine operations, which includes at least routine road watering. If DEQ notes during an inspection that fugitive dust levels from road traffic or mining practices are excessive, then the mining company would be told to conduct specific dust control measures to resolve the problem. If the problem continues and is not corrected, then non-compliances can be issued.

DEQ did not receive any complaints during the riprap removal process about dust. DEQ does not know the level of dust the riprap blasters and other workers were exposed to in the process of preparing and loading trucks for transport off the site. However, DEQ does not believe the amount of dust transported with the riprap from the mine site on the rocks would constitute a hazard where they were deposited. There is no technical description available for the syenite rock used for riprap. Tremolite is not a normal constituent of syenite and should not be present in the riprap. The only asbestos contamination on the riprap would be a surface coating of dust on the large boulders.

DEQ would not have approved the riprap removal project if it believed the project would have endangered public health and safety in the area where the rock was used, but worker safety is an OSHA/MSHA regulated activity and is not within the regulating authority given DEQ under the MMRA.

See response to Comment 1-4, Industrial Hygiene Asbestos Concerns, and response to Comment 5-10, Mine Health and Safety Laws, for more information on miner health and safety concerns.

1                   I filed a Complaint. I was asked by  
2 one to file a Complaint for an investigation of the  
3 bond issue. I said, yes, I would put my name on  
4 it. I have a family history full of asbestosis.  
5 Both of my parents died of it. My brother-in-law  
6 died of lung cancer. My uncle worked down at "J  
7 Mills" in St. Regis for over 30 years; he has  
8 asbestosis. My aunt and the whole family grew up  
9 in Libby. She left here over 40 years ago. She  
10 and her family all have asbestosis.

11                   I felt that the cycle had to be stopped  
12 somewhere. I felt that by reopening -- whether  
13 they were reopening the mine or simply hauling  
14 riprap back down, the dust was there. That has  
15 always been called dust.

16                   We always said the dust that killed  
17 dad, the dust that killed mother. We weren't smart  
18 enough in those days to know exactly what was in  
19 the dust. But we do now, and we know why the dust  
20 is lethal.



1-21

1                   My generation wasn't protected. We  
2 were children of employees. We didn't have a  
3 choice. Our fathers didn't know. But we have a  
4 choice now and we have a right to a clean and  
5 healthy environment. We don't have to wait for the  
6 fish to die before we test the water. That's all  
7 I'm asking, that we test the water. If the water  
8 is clean I'll probably be the happiest person in  
9 Libby, Montana. But for God's sake, let's test the  
10 water and make sure that there isn't a threat for  
11 our children. I don't want to see my grandchildren  
12 in 20 years go through what some of these people  
13 have had to go through now. They shouldn't have to  
14 do that.

14                   Thank you.

### **Response: Comment 1-21, Testing Water and Fish in the Area:**

As noted in the response to Comment 1-3, Bond Release Hazard Assessment, the water in the impoundment and the creeks has been sampled since 1991. The only water quality standard exceedance identified in the Fall 1999 sampling was the level of asbestiform fibers in the impoundment water (See Attachment 4). This is not surprising since the impoundment was designed to capture the asbestos containing tailings and prevent the tailings from washing down into Rainy Creek. If sampling in Spring 2000 shows that the levels of asbestiform fibers create a hazard in Rainy Creek below the impoundment, then an evaluation will be made on the need for cleanup.

If deemed necessary, part of the proposed sampling in Spring 2000 will target local fish populations to determine if fish are affected by asbestiform fibers in the water, or if eating fish from the creeks, river, or impoundment poses a human risk. Based on the results of the sampling, appropriate measures will be taken to resolve any problems to eliminate the risk.

The DEQ recently took five ground water samples from public and private water systems in the Libby area to check for asbestos contamination. The sampling results revealed no contamination.

Libby officials sampled the city's public water system and found no asbestos contamination. The DEQ decided to verify those results and recently sampled the water. The DEQ sample results revealed no detection of asbestos, thus substantiating the city's initial findings. Libby gets its water from Flower Creek, which is in a drainage southwest of the city. No asbestos contamination has been reported in that drainage.

Rainy Creek, downstream from the water intake for the former mine/mill, is classified C-1 because of historic mine impacts to the drainage. Upstream of that point Rainy Creek is classified A-1. The other waters in the Rainy Creek watershed and the Kootenai River are classified B-1. While B-1 waters "are suitable for drinking, culinary and food processing purposes, after conventional treatment; . . ." (ARM 17.30.623), C-1 waters are not suitable for drinking and should not be used for that purpose (17.30.626).

The ambient WQB-7 water quality standard for the protection of human health is 7 million asbestos fibers per liter. This standard does not apply to lower Rainy Creek in the reach designated C-1. The standard does apply to Rainy Creek above the tailings impoundment and to the other streams in the area.

Currently, there is no asbestos standard for the protection of aquatic life.

The EPA and DEQ sampling plan proposes to sample water and sediment in Rainy Creek, its tributaries Carney Creek and Fleetwood Creek, and the Rainy Creek confluence with the Kootenai River in Spring 2000.

1                   MR. HUBBARD: Thank you,  
2   Mrs. Skramstad.  
3                   The next speaker is Don Judge.  
4   Mr. Judge?  
5                   DON JUDGE: Thank you, Mr. Moderator.  
6   For the record, my name is Don Judge. I serve as  
7   Executive Secretary of a Montana State AFLCIO, an  
8   organization of more than 42,000 working families  
9   across the state of Montana.  
10                  My concern is about the working  
11   families of Libby, Montana, the former members of  
12   Operating Engineers Local 361, which represented  
13   the workers of the vermiculite mine, and those who  
14   work the mill currently today at "Stempson" (Stimson) who may  
15   be affected by the product produced at that  
16   vermiculite mine.  
17                  I've just come from Seattle where more  
18   than 20,000 trade unions from across this country  
19   gathered in peaceful protest to rally and march to  
20   demonstrate against the World Trade Organization  
21   policies and procedures. And for the uniformed  
22   officers in the room, I threw no rocks, I started  
23   no fires and I chained myself to no trees. So I'd  
24   like to get out of here tonight at some point.



1                   But I did participate in delivering a  
2 message to the Congress and the President of the  
3 United States that trade policies aren't working  
4 for working people. Why is that important? Why is  
5 that initiative for you? Because right now one  
6 country, a country of France, has said, we don't  
7 want to allow asbestos products into our country  
8 because it will affect the health and the security  
9 of our citizens.

10                  And another country, Canada, where in  
11 Quebec, Canada they have a town called Asbestos,  
12 has said that's unfair under the rules and  
13 procedures of the World Trade Organization. It's  
14 an unfair barrier to trade. You must allow us to  
15 ship asbestos products to your country. And the  
16 World Trade Organization has yet to rule.

17                  And I thought to myself, do they know  
18 about Libby, Montana. Do they know about the  
19 people of Libby, Montana, about the workers in  
20 Libby, Montana, about the spouses and about the  
22 children in Libby, Montana. Do they understand  
23 that they're producing and transporting this white  
24 death all across the world. Do they understand  
25 that there's no cure for this white death, but  
26 simply progresses, comes, and you go. There is no  
27 option to that.

1                   And I thought, no, they don't  
2 understand that. So we got concerned about that  
3 issue. We have been concerned about that issue in  
4 organized labor for a long time, but not long  
5 enough. And let me on behalf of the AFLCIO  
6 apologize to those of you in this community for the  
7 lack of our knowledge and our participation in  
8 taking care of this issue many, many years ago.  
9 We, like you, didn't understand what was happening  
10 to the workers. We knew they had good jobs, good  
11 pay and good benefits and the community of Libby  
12 was thriving because of those good jobs and good  
13 benefits.

14                   And only after the plant had shut down  
15 did we really understand the extent of the injury  
16 that had been forced upon this community and upon  
17 workers and the spouses and the children of the  
18 community. And so we have engaged, and I promise  
19 you we will stay engaged, in defending your rights  
20 to pursue legal remedies under the law.

21                   And the Congress we have testified  
22 against and we will continue to work against any  
23 legislation that restricts the rights of the people  
24 affected by exposure to this drug. We're gaining a  
25 legal recourse to address their financial needs,  
26 their emotional needs and their financial needs in  
27 the future.

1                   And the Montana State Legislature,  
2   where a bill was introduced that would have taken  
3   away your rights to pursue legal regress to the  
4   courts for too many of you, we testified and we  
5   will continue to oppose any efforts to restrict  
6   your rights to receive legal regress to the  
7   courts. We'll continue to do that because it's the  
8   right thing to do. It's the right thing to do and  
9   you deserve that.

10                  But we're concerned about what's going  
11   to happen in Libby, Montana today. I was looking  
12   at the young people coming in. I have kids. I  
13   have a daughter who's 17, and I see some kids in  
14   this room who are obviously 17. And I have a son  
15   who is 10. And I think to myself, how would my  
16   kids respond to picking up the Seattle P.I. or the  
17   Missoulain or the local papers and see that maybe  
18   they were the next one to come down with this.  
19   And my children would be frightened. They would be  
20   frightened to death that they were going to suffer  
21   what their grandparents, their aunts and their  
22   uncles, maybe even their fathers or their mothers  
23   have suffered. They would be frightened to death.

1                   And the State government and Federal  
2 government has a responsibility to make sure that  
3 those kids know that this town is clean, that they  
4 understand that it's okay to play ball in the ball  
5 field, that it's okay to breathe the air and drink  
6 the water and even to stay and raise their own  
7 families in the future. They need to understand  
8 that so that they can go back to being kids, so  
9 they can enjoy being at basketball games, so they  
10 can enjoy being at football games, so they can  
11 enjoy playing in the streets of this community.  
12 The kids deserve that, and the parents deserve to  
13 know that the kids feel better about their future.  
14 We owe them that.

15                   We're here as a labor organization to  
16 tell you that we're going to ride somebody's ass  
17 until this thing is taken care of. We're going to  
18 be there -- John and others. We're going to be  
19 there to make sure that you test the water, that  
20 you test the air, that you test the soil. And if  
21 it's clean, tell people it's clean, and if it's  
22 not, like it wasn't in (E)ast Helena, then go out  
23 there and dig up 12 inches of ground in everybody's  
24 yard until it is clean and make sure that this  
25 community that was once a thriving community, happy  
26 and proud of itself, can once again be a thriving  
27 community, happy and proud of itself working to  
28 rebuild its economy, working to give a better  
28 future to its citizens.

1-22

## **Response: Comment 1-22, Testing Air, Water, and Soil in the Area**

As of December 1999, the EPA and DEQ have completed two separate rounds of sampling.

### **November Sampling**

Samples were collected from Rainy Day-Jackson Road 41. One sample was collected every 1,000 feet from the confluence with Highway 37 to the mine. Road surface soil samples and road cut samples were collected. Rainy Creek water samples were collected from the impoundment area to the Kootenai River confluence. The mine area soil and air will not be sampled until Spring 2000.

Several vermiculite samples were collected from the tunnel beneath the former screening facility's storage bins and outside on the surrounding property and buildings. Additional 8-hour ambient air samples were collected in the tunnels. Several vermiculite samples were collected from several buildings in the former export facility, which is currently owned by the City of Libby and used as a private business. Numerous 8-hour ambient air samples were collected in the buildings as well. In addition, several surface soil samples were collected from the ball fields adjacent to this facility.

### **December Sampling**

Several vermiculite samples were collected in the tunnel beneath the former screening facility storage bins and outside in the surrounding property and buildings. Additional 8-hour ambient air samples were collected from within the tunnels and in the office/home of the owners of the plant nursery.

Several vermiculite samples were collected in buildings of the former export facility. More 8-hour ambient air samples were collected in the buildings.

Subsurface soil samples were collected from the ball fields adjacent to the export plant. Several surface soil and vermiculite samples were collected at the railroad loadout facility across the Kootenai River from the screening plant. In addition, several soil samples were collected from the new subdivision next to the railroad loadout facility.

Seventy-three air samples were taken from 32 residential homes, two businesses and two former processing areas. Sampling in the homes included insulation in the walls and attics, interior air, interior surfaces (i.e., rugs, furniture, tables etc.), lawns, driveways, and gardens. In addition, vermiculite samples were collected from two city office buildings and the schools in Libby.

Four ambient stations have been set up in Libby and will collect ambient air samples. Air sample collection started in January 2000. The exact time schedule for collecting samples is undetermined.

Future sampling plans include the former export plant at the lumber facility, the mine site (once weather conditions improve), water samples from Rainy Creek, Fleetwood Creek, Carney Creek, and the Kootenai River, aquatic samples from the impoundment pond area, Rainy Creek and possibly the Kootenai River, additional residential homes and business; and ambient air samples in the town.

Initial sample results were presented in a public meeting on February 2, 2000 in Libby. See responses to Comments 1-14, 1-21 and 1-22 for additional information.

1-23

1                   I wish I could spend every day -- I've  
2   got a lot of friends up here and I got a chance to  
3   meet and visit with some of you out in the  
4   audience. I got a chance to also walk down to a  
5   local bar before this hearing tonight, sit down and  
6   -- yeah; sat down and drank one beer whilst I was  
7   writing out some testimony, and when I was all done  
8   had one more short one, listening to two people in  
9   the community on different sides of this issue  
10   address it -- those concerned about what it's doing  
11   to the economy and to tourism and to businesses  
12   that want to locate here and the other concerned  
13   about what he was going to tell his kids. And they  
14   both agreed that they needed an answer, that they  
15   deserved an answer.

16                   On behalf of the AFLCIO we need to have  
17   an answer, too, so we're going to be there with you  
18   all the way through this.

19                   God bless you and thank you all.

20                   MR. HUBBARD: Thank you, Mr. Judge.

**Response: Comment 1-23, Effects on Tourism and Economy**

It took time for the situation in Libby to develop and it will take time to identify and address the potential environmental and public health problems. Time is also a factor in determining the current investigation's impact on Libby's economy, tourism, business community and its citizens. If testing reveals environmental exposures still exist, it will take time to cleanup or stabilize those sites. The result, however, will be an environment that will be proven safe for people, in addition to being attractive for economic development, existing businesses and people visiting the area.

1-24

1                   Our next speaker is Ray Sufke.

2                   RAY SUFKE: Well, I was born in 1922.

3 I never worked up at Zonolite and I've got

4 asbestosis. So I didn't get it at the mine. That

5 means I picked it up in Libby or in the surrounding

6 area, somewhere. We understand that now.

7 So that's all I got to say.

8                   MR. HUBBARD: Thank you, Mr. Sufke.

9                   Our next speaker is Bonnie Gestring.

10                  BONNIE GESTRING: My name is Bonnie

11 Gestring. I work for Montana Environmental

12 Information Center. And I have a few comments that

13 I'd like to make for the record, but I'll try and

14 keep what I say brief and hand in the rest.



**Response: Comment 1-24, Sampling in Libby Area to Be Done**

See responses to Comments 1-12, 1-14, 1-21 and 1-22 for information on sampling to be done in the Libby area.

1 I'd like to restrict my comments  
2 somewhat tonight to talking about the Metal Mine  
3 Reclamation Act and the W.R. Grace mine.

4 The Montana metal mine, which is the  
5 underlying purpose of this meeting, was the  
6 proposed bond release, no disparity over that. The  
7 Montana Metal Mine Reclamation Act requires that  
8 reclamation of a mine site provide sufficient  
9 measures to insure public safety and to prevent the  
10 pollution of air or water and the degradation of  
11 adjacent lands. That's in the law. It further  
12 states that a reclamation bond may not be released  
13 until these provisions have been fulfilled.

14 The provisions of this law have clearly  
15 not been met because the Department has failed to  
16 even assess the public health impacts of the mine  
17 site, let alone insure that public safety was --  
18 insure public safety. The no air quality  
19 monitoring has been conducted to evaluate whether  
20 asbestos fibers are being released at the mine  
21 through the erosion of mine tailings or other  
22 disturbed areas, nor have any waste rock samples  
23 been collected from the tailings pile to determine  
24 the concentration of asbestos fibers that were  
25 available for containment.

1-25

## **Response: Comment 1-25, MMRA Requirements for Reclamation**

### **Public Hazards from Mine Not Addressed Before Bond Was Released**

See the response to Comment 1-3, Bond Release Hazard Assessment, for an explanation of what DEQ did to assess public hazard before the bond was released. DEQ would not have released the bond if it believed the mine site presented an on-going danger to the public.

### **Public Safety Impacts From Mine Not Addressed Before Bond Was Released**

See response to Comment 1-3, Public Safety Addressed in Reclamation Process, for an explanation of what DEQ did to address public safety impacts before releasing the reclamation bond. The DNRC-DSS permit was ready to approve before the DEQ bond was released. DEQ would not have released the bond if a public safety hazard had been identified.

### **DEQ Failed to Prevent Air Pollution Effects**

See response to Comment 1-3, Bond Release Hazard Assessment, for an explanation of how DEQ addressed air pollution effects from the mine site before the bond was released. Air monitoring was conducted along the Rainy Creek road by Lincoln County officials and W R Grace to evaluate impacts (see Attachment 1). DEQ would not have released the bond if an air quality problem had been identified.

### **DEQ Failed to Prevent Water Pollution Effects**

See response to Comment 1-3, Bond Release Hazard Assessment, for an explanation of what DEQ did to evaluate water pollution effects from the mine site before the bond was released. Water monitoring was conducted to evaluate impacts. DEQ would not have released the bond if a water quality impact had been identified, or if water quality problems could not have been resolved under the Water Quality Act.

### **DEQ Failed to Address Degradation of Adjacent Lands**

As stated in the response to Comment 1-3, Bond Release Hazard Assessment, DEQ evaluated the effects to air and water and found no reason to maintain the bond. The bond was held on the active areas in the mine that were still being used or areas that continued to erode. DEQ would not have released the bond if degradation of adjacent lands continued to occur. If sampling starting in Spring 2000 identifies a public health, safety, air or water pollution problem, a remediation plan will be developed to correct the problem.



### **Potential for Asbestos Fibers Being Released Through Erosion of Mill Tailings and Other Disturbed Areas**

Asbestos fibers continue to be released from eroding areas. That is one of the reasons why the bond was not released on the actively eroding coarse tailings area. DEQ will meet with Kootenai Development Company and develop a plan to stabilize the eroding tailings area in 2000. If air and water monitoring scheduled to be conducted in 2000 show a continuing release of fibers from any other areas on the mine site, a remediation plan will be developed.

Currently, the conditions at the mine site prevent the EPA and DEQ from collecting quality samples. Due to the wet conditions, sampling of ambient air from the mine and mine road would give inadequate sample results. Also, due to the large amount of snow currently existing on the mine, the EPA and DEQ are unable to collect waste rock, or tailings samples. However, once conditions improve, sampling will occur at the mine facility. Sampling locations will include the road, the coarse tailings pile, the tailings impoundment area, the Glory Hole and waste rock piles adjacent to the mine, as well as other locations the community requested.

See response to Comment 1-22 for additional information.

### **No Waste Rock Samples Were Taken from Tailings Pile or Other Areas to Determine the Concentration of Asbestos Fibers**

DEQ did not take any samples from the tailings or waste rock dumps because the presence of large quantities of asbestos fibers in the tailings was well known. As explained in the response to Comment 1-3, Bond Release Hazard Assessment, DEQ did not think there was an on-going risk from the reclaimed mine area, because the Rainy Creek road sampling was not above standard. DEQ believed the Rainy Creek road dust presented a greater risk to the public than the mine site. This is true, even though the asbestos levels were much greater on the mine site (especially in the tailings pile) because of continuing use and much greater dust production from the road.

If sampling starting in Spring 2000 identifies an on-going hazard from the mine site, a remediation plan will be developed to address the concerns.

1                   A 1982 study conducted by the  
2   Environmental Protection Agency at the W.R. Grace  
3   mine documented that waste or dust are a  
4   significant source of asbestos fiber and that  
5   asbestos fibers are easily resuspended by wind and  
6   water and can be redistributed widely. EPA  
7   documents say that there is no safe level of  
8   asbestos exposure and that asbestos fibers are  
9   virtually indestructible.

10                Asbestos will continue to pose a  
11   potential health threat until the source of  
12   asbestos has been completely contained. So in  
13   order to insure public safety at this mine, as the  
14   law requires and that has not been done to date, we  
15   ask that a comprehensive sampling and monitoring  
16   program be conducted to evaluate potential health  
17   hazard potentials like, soil, air and water, and  
18   the mine be properly reclaimed to prevent any  
19   further exposure.

1-26

**Response: Comment 1-26, Continued Sampling and Monitoring to Identify Potential Risks**

As stated above in earlier comments, continued sampling of air, water, soil, and possibly fish will start in Spring 2000 to document if there is a potential on-going public hazard from the mine site. If the mine site continues to present a public hazard, a reclamation plan will be developed to address that risk. DEQ did not believe the mine posed a potential on-going risk as explained in response to Comment 1-3, Bond Release Hazard Assessment.

See responses to Comments 1-22 and 1-25 for additional information.

1-27

1                   There is ample documented evidence that  
2 W.R. Grace was well aware of the health impacts of  
3 asbestos on mine workers and their families and yet  
4 failed to inform their work force. With this  
5 demonstrated record of deceit I think it's entirely  
6 inappropriate that the company be allowed to become  
7 involved at all in the investigation of this mine  
8 site, as they offered to yesterday with the  
9 Governor of the Department of Environmental  
10 Quality, and we ask that that be prohibited.

1-28

11                   The Montana Metal Mine Reclamation Act  
12 also prohibits objectionable post mine ground water  
13 discharges. W.R. Grace employees have witnessed a  
14 barrel of numerous indeterminate materials in the  
15 Gloryhole. Because the Gloryhole is not capped,  
16 precipitation in the area is high and the Glory-  
17 hole forms its depression on the mine site which  
18 will readily collect water, groundwater  
19 contamination is a significant concern. And we ask  
20 that a long-term groundwater sampling program be  
21 established and measures be taken to address the  
22 problem of contamination as detected.



**Response: Comment 1-27, W R Grace Involvement in Process**

W R Grace's management of its former employees will be judged in other forums. As a potential responsible party (RP) in the environmental health investigation, the company is providing information that will aid investigators. The investigators are also allowing the company to take duplicate samples at sampling sites. Not only does this confirm sampling results, it also adds to the information base. The sampling is aimed at identifying problem areas. If there are such problem areas, state and federal authorities will plan how to cleanup or stabilize those areas. If contaminated sites can be identified with a RP, the RP can do the remediation according to standards set by state and federal authorities or the government can cleanup the site and get the RP to reimburse the costs.

**Response: Comment 1-28, Groundwater Monitoring Around Glory Hole**

The commenter is correct. DEQ plans to ask for a revised reclamation plan for the Glory Hole to eliminate the depression. DEQ also plans to require Kootenai Development Company and W R Grace to sample the old process water well on site to evaluate if any groundwater quality standards have been exceeded by materials placed in the Glory Hole during the demolition phase. If a water quality problem is found, the Glory Hole would be excavated to remove the source of the contamination.

See response to Comment 1-25 for additional information.

1-29

1                   The Metal Mine Reclamation Act also  
2 requires that disturbed land be reclaimed to  
3 comparable utility and stability as that of the  
4 adjacent areas. Reclamation at the W.R. Grace mine  
5 does not meet either of those requirements.

6                   I think you saw the slides that Roger  
7 presented earlier. You can see the enormous  
8 tailings pile that extends all the way down to the  
9 stream there and the bare surfaces around it. That  
10 in no way is reclamation. It doesn't in any way  
11 look like the area around it on either side. You  
12 can see how that area is in terms of utility and  
13 stability, and there's no way you can say that the  
14 mine meets those two criteria.

15                  The reclamation plan that was approved  
16 in 1971 states that forestry, wildlife and  
17 recreation are the land uses or the utilities in  
18 which the area is to be reclaimed. With no stretch  
19 of the imagination could one say that this area  
20 could be used for forestry, wildlife or recreation  
21 anywhere in the near future.

### **Response: Comment 1-29, Comparable Stability and Utility**

The commenter is correct that the MMRA requires areas disturbed by mining to be reclaimed to comparable stability and utility as adjacent areas. DEQ has tried to evaluate that requirement on a site by site basis. Many old reclamation plans were approved in the early 1970's, which did not require soil salvage and replacement. Many reclaimed areas have been released over the years because the areas had been seeded and planted and the reclamation was judged successful even though the cover of grasses and trees had not reached levels comparable with surrounding areas. But these areas were released after a determination was made that the site had been reclaimed to the point that plant and soil succession had begun and comparable stability and utility could be achieved on the reclaimed area in a length of time that varies from site to site.

DEQ tried to evaluate the W R Grace mine site's potential to reach that level of comparable stability and utility after the completion of the approved reclamation plan and several years of plant growth. As explained in the response to Comment 1-6, Tailings Pile Not Reclaimed, and Comment 1-10, Entire Mine Site Still Unreclaimed, DEQ compared the tailings area reclamation with old areas of tailings that revegetated naturally by just being undisturbed for many years. Other areas of the mine also have naturally revegetated after many years of inactivity. This indicates the potential ability of the mine waste materials to reach comparable levels of utility with surrounding areas. Sites that had the bond released in the late 1980's were visited again in the mid-1990's and the tree and other plant growth had continued to improve.

Plant growth on the mine site is slow as explained in response to Comment 1-19, Problems with Plant Growth in Mill Tailings and Waste Rock. But the Libby area climate is very conducive to plant growth because of the high precipitation in the area. DEQ did not consider the mine site to be a continuing hazard as explained in response to Comment 1-3, Bond Release Hazard Assessment. DEQ published bond releases four times over the years and the department did not receive any complaints about past bond releases. If the past bond releases were premature, as expressed by the commenter, and a continuing hazard is identified in the sampling of air, water and soil on the mine site starting in Spring 2000, a remediation plan will be developed to correct the problem. DEQ would not have released the bond if the mine site had not been reclaimed to the point that the agency thought comparable stability and utility was ensured. The trees are growing but it will take time for them to mature on the infertile materials on the mine site.

### **Post Mine Land Use**

#### **Forestry**

The 1971 operating permit approved the post mine land use of the mine area as forestry, wildlife, and recreation. Trees have been planted and continue to grow although slowly as explained above in response to Comment 1-19, Problems with Plant Growth on Mill Tailings and Waste Rock. The precipitation in the Libby area guarantees that the post mine vegetation community will be a forest. The question that must be answered starting with the sampling scheduled to begin in Spring 2000 is whether future logging on the site would be safe. If asbestos fibers are stirred up in the dust during a mechanized logging operation, workers must be assured that they are not at risk.



This question will be addressed in the risk assessment that will be completed for the mine site, which will determine the level of activity that can or cannot occur on the site. Land use restrictions can be placed on the property limiting potential uses if a risk is identified. DEQ did not believe the mine site presented any continuing risks when it released the bond, as explained in response to Comment 1-3, Bond Release Hazard Assessment. If a future risk is identified, the post mine land use might change to a forested area, but logging would not be permitted.

### **Wildlife**

The use of the area by elk and deer has been observed often during mine inspections. Moose have been observed in the tailings impoundment. Waterfowl and large numbers of tadpoles and frogs have been observed in the tailings impoundment. Fish are prevalent in the impoundment. This use would only increase as the mine vegetation community continues to develop over the years.

The Spring 2000 sampling will seek to determine if the impoundment water and tailings are a threat to the fish, tadpoles, etc. that are exposed to it. If the answer is yes, then a reclamation plan change is needed to remove the risk. The same is true for the big game that use the mine site.

### **Recreation**

As explained in the response to Comment 1-3, Bond Release Hazard Assessment, DEQ did not consider the site to pose an on-going risk. Recreationists that use the private land must be made aware that the materials on the site can produce a risk if their activity or their vehicles stir up dust or if the materials are ingested. The reclaimed mine site can be and has been used by fishermen, hunters, wildlife viewers, etc.

Sampling to be conducted starting in Spring 2000 will identify the degree of risk from the air, water and soil on the mine site. If necessary, the post mine land use can be modified and recreation activities can be controlled by fencing by the landowner.

1-30

1                   So in order to meet this provision of  
2 the Metal Mine Reclamation Act, the waste rock pile  
3 and the forest (coarse) tailing area should be recontoured  
4 and the entire mine site covered with topsoil and  
5 re-vegetated.

1-31

6                   DEQ has repeatedly stated that the  
7 original reclamation plan does not require the  
8 company to stockpile topsoil for use in  
9 reclamation, but this is not an adequate excuse.  
10 The Department could and should have amended the  
11 reclamation plan to require the company to obtain  
12 topsoil for this purpose. They amended the  
13 reclamation plan in 1992 in order to authorize the  
14 rerouting of Rainy Creek through the tailings  
15 impoundment. They could have at any time amended  
16 the plan as well to require that the company obtain  
17 topsoil so that the mine could be adequately  
18 reclaimed, vegetation secured and the containment  
19 of asbestos completed.

**Response: Comment 1-30, Additional Recontouring and Soiling at Mine**

Based on the results of air, water and soil sampling to be conducted in Spring 2000, a decision will be made about recontouring and soiling the mine site. If it is determined that the mine site presents a foreseeable public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area, a remediation plan will be developed which could include recontouring and soiling. This plan would also address the concern about the post mine land use raised by the commenter, even if the sampling does not show the need for recontouring and soiling.

As stated above in response to Comment 1-25, Potential for Asbestos Fibers Being Released Through Erosion of Tailing and Other Disturbed Areas, the coarse tailings area reclamation plan will be modified under Section 82-4-337, MCA and the area will be recontoured to control the continuing erosion.

**Response: Comment 1-31, Amending Reclamation Plan**

The commenter is correct that DEQ could have modified the requirements of the reclamation plan. As noted above in response to Comment 1-3, Bond Release Hazard Assessment, Comment 1-6, Tailing Pile Not Reclaimed, Comment 1-10, Entire Mine Site Still Unreclaimed, and Comment 1-29, Comparable Stability and Utility, modifications of the reclamation plan was not necessary because no on-going public risk was identified at the mine site.

A large part of the soil originally on this mine site was wasted prior to implementation of the MMRA in 1971. Salvage of the remainder of the soil on the site was not required in the 1971 reclamation plan. Whether it is reasonable or desirable to disturb another large area to mine soil to reclaim this mine site is a value judgement. The DEQ was of the opinion that revegetation would proceed at the mine site, for reasons stated in earlier responses, without disturbing another area.

The reclamation plan was modified in 1992 as the commenter noted, but this was at the request of the mining company and the public had a chance to comment in two environmental assessments and a public meeting in Libby.

As noted above in response to Comment 1-28, Groundwater Monitoring Around Glory Hole, the reclamation plan will be changed for the Glory Hole. Also, in response to Comment 1-25, Potential for Asbestos Fibers Being Released Through Erosion of Mill Tailings and Other Disturbed Areas, the reclamation plan for the eroding coarse tailings area will be changed.

Based on sampling beginning in Spring 2000, other reclamation plan changes may be necessary.

1-32

1                   As to asbestos contamination outside of  
2 the mine permit area we urge that a comprehensive  
3 evaluation be conducted to identify any potentially  
4 ongoing health hazards and that prompt remediation  
5 occur to prevent any further exposure.

6                   There's a lot of people in the audience  
7 today that know a lot more about what has been done  
8 around town, and I'd like to leave any further  
9 comments to them and provide my comments just as  
10 written testimony.



**Responses: Comment 1-32, Additional Sampling in Libby Area**

See responses to Comment 1-22, Testing, Air, Water and Soil in the Area, for additional information on sampling to be conducted in the Libby area.

1 But finally, I'd just like to say that  
2 while the highest priority certainly is identifying  
3 and eliminating sources of asbestos contamination  
4 to prevent any future exposure, another important  
5 element that should not be lost in this process is  
6 determining why and how this situation was allowed  
7 to develop, because I just can't believe that so  
8 many people have died before something is happening  
9 here at this mine site.

10 W.R. Grace is ultimately responsible  
11 for the asbestos contamination and its impacts on  
12 mine workers in the community. However, our  
13 government agencies also have a responsibility in  
14 their oversight capacity to act as a public safety  
15 net, and that has completely failed.

16 So I ask that an investigation be  
17 conducted to determine why Libby fell through the  
18 cracks. And this is not an isolated incident. The  
19 "Zorbaline Dusty"(Zortman/Landusky) mine, the "Kennel"(Kendall) mine  
20 have both created substantial liabilities for Montana  
21 citizens and affected citizens just like  
22 yourselves. This is a pattern of negligence that  
23 just must end.

24 With that in mind, I have a whole slew  
25 of questions that I'm going to offer for the  
26 Department to answer, and I won't go through all of  
27 them today, but I hope we can get answers to how  
28 this situation was allowed to develop.



1-33

1                   And I got a hand-out when I entered  
2   that says that -- from the Department that says  
3   that it is apparent that the State and Federal  
4   agencies have worked with W.R. Grace to insure the  
5   ore processing facilities complied with statutes  
6   and standards.

**Response: Comment 1-33, Why Wasn't Anything Done Before?**

Where does the responsibility lie for the asbestos contamination and health problems in the Libby area? These questions will be answered carefully and thoughtfully as investigations proceed and court cases are adjudicated. In the meantime, the DEQ and DPHHS will do their part by continuing to administer the state's environmental and public health laws. The agencies agree with the statement in the testimony that said the highest priority is identifying and eliminating sources of asbestos contamination to prevent future exposure.

1                   And I can't understand how this can  
2 possibly be. How can 300 people -- hundreds of  
3 people be exposed, have asbestosis, have died from  
4 this and all the statutes and standards have been  
5 complied with? If that's the case then we sure  
6 need to get out there and the Department better get  
7 out there and find out what laws need to be changed  
8 in order for people's public health to be secured,  
9 because I can't see how the laws could have been  
10 followed and people could have been harmed so  
11 terribly as have been here in Libby.

12                   So I'd just like to end with that  
13 request.

14                   MR. HUBBARD: The next speaker is Jim  
15 Jensen.

16                   JIM JENSEN: Pass. My point's been  
17 made.

18                   MR. HUBBARD: Thank you.

19                   The next speaker is Pat Vinion.

20                   PAT VINION: I'm one of the people that  
21 Roger Sullivan said to be careful about what you  
22 say, so I will try to be careful.

23                   But I still have three young kids that  
24 are growing up here. When my father was a young  
25 man they told him that you can't eat enough of that  
26 stuff. It won't bother you. Don't worry about  
27 it. Well, he's dead.

**Response: Comment 1-34, Purpose of Investigation to Identify  
Possible Risks and Cleanup as Needed**

The agencies and local health officials will use the data from the sampling and the health information gathered in the investigation to do a health risk assessment. The health risk assessment will determine cleanup levels needed to protect the public in the area.

It is also likely that a renewed effort will be implemented to try and update laws and regulations affecting mining and use of products containing asbestos materials.

1-35

1                   When I started feeling sick when I was  
2   younger they said, you never worked there. It's  
3   not possible. You can't get it that way. You  
4   never worked there. Well, it's more than possible.  
5   I am dying from it.

6                   But we'll go past the point. Now I  
7   have three kids, and in the paper our (H)ealth  
8   (D)epartment says, "we only have one percent  
9   tremolite in our land." One percent of tons of  
10   tremolite is a pile of tremolite, and I guarantee  
11   you it will kill your kids. And I don't want my  
12   kids doing what happened to me, or my father or my  
13   relatives. One percent is not acceptable, no  
14   matter what anybody says to you.

15                  Thank you.

16                  MR. HUBBARD: Thank you, Mr. Vinion.

17                  Our next speaker is Don Wilkins.

18                  DON WILKINS: Pass.

19                  MR. HUBBARD: Okay. Our next speaker  
20   is Louise Kaeding.

21                  LOUISE KAEDING: You all can see this.  
22   I've seen a lot of people go. I've seen a lot of  
23   people that have it and are waiting. I've seen my  
24   husband gradually get so that when we walks he  
25   completely goes like this. He wears the oxygen,  
26   but he can't breathe.



**Response: Comment 1-35, Time/Dose Exposure to Asbestos**

See response to Comment 1-18, Continuing Threat of Asbestos Exposure Today, and response to Comment 1-34, Purpose of Investigation to Identify Possible Risks and Cleanup as Needed, for more information on the investigation that is being conducted in the Libby area.

1                   And I would like to address a comment  
2   that was made in the paper. I know that the town  
3   of Libby needs jobs; we need people. But we need a  
4   healthy environment, and I urge all of you -- I  
5   mean our city, our Congressmen, our reclamations,  
6   whoever is involved -- don't let this thing go  
7   until we can clean up this mess so that there are  
8   no more deaths. We don't need anymore.

9                   The comment was that we were jumping on  
10  a band wagon of money. That's kind of wrong  
11  thinking, people. It's not the reason that anyone  
12  jumps on that band wagon, because nobody wants to  
13  carry that band wagon around. And I love Libby and  
14  I want to see my kids and grand kids grow up  
15  healthy here, too. So let's clean it up.

16                  MR. HUBBARD: Thank you.



1                   Our next speaker is Terry Smith.   Mr.  
2   Smith.

1-36

3                   TERRY SMITH: Long time that's at  
4   stake, but I'll try. Can I do this? I've lost  
5   both of my parents to this stuff. I've been like  
6   most of them. My brother has it real bad. And a  
7   lot of these people walk around with these oxygen  
8   bottles, think they got emphysema or something.  
9   You've got to go to a specialist to find out what  
10   this stuff really is. I know when my dad had it  
11   that's what they told him, he had emphysema. And  
12   finally after 15 years or so he finally went to a  
13   specialist. He couldn't work. And they took a  
14   biopsy of his lungs and he had asbestosis.  
15                  My uncle died all the time thinking he  
16   had emphysema, and when he passed away they flew  
17   him to Great Falls and took his lungs out and he  
18   was full of asbestosis.

1-37

19                 And they had these ore pilings down  
20   there at the river when I was a kid, we used to go  
21   play in them all the time. And I imagine lots of  
22   people here did the same thing. I worked out there  
23   three years, and I was gone from them for 27 years  
24   before I was finally broke down and had myself  
25   checked out when I was diagnosed with it.

**Response: Comment 1-36, Misdiagnosis of Asbestosis in the Past**

Misdiagnosis of asbestosis in the past has complicated the investigation into the cause of death of many people who have died in the Libby area. The misdiagnosis in the past will not affect the current investigation's attempt to identify current health problems in the Libby area.

Today, patients who have concerns about their primary care physician's diagnosis, should either ask their doctor about being referred to a specialist, or seek a second opinion from another doctor.

**Response: Comment 1-37, Libby Population to Be Surveyed Through Interviews, Chest X-rays, and Pulmonary Function Testing**

See response to Comment 1-17, Health Effects to Those Who Didn't Work at the Mine, for more information about health studies to be conducted in the Libby area.

1-38

1                   And, like I say, these people did the  
2   reclamation on that. They're going up there and  
3   start building houses, put in roads up there.  
4   They're going to be digging up the ground and, you  
5   know -- and I don't know. I don't think they  
6   should ever be allowed to build on that place,  
1   because they're just going to kick up more of this  
2   dust.

3                   And everybody's talking about this  
4   tailings pile. Well, what about when they dumped  
5   all the waste on the back side? That was raw ore,  
6   a lot of it, and it's full of that asbestos, but I  
7   haven't heard one word here mentioned about the  
8   back side. And there's a pond on that back side,  
9   too. I haven't been up there in years, so -- I  
10   don't know. I don't think they should ever be  
11   allowed to build up there.  
12   That's all I got to say.

1-39

**Response: Comment 1-38, Future Land Use on Old W R Grace Property**

Sampling to be done starting in Spring 2000 on the old W R Grace property will be used to determine whether the mine site presents foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area. Depending on the results of the sampling, clean up may be needed. Land use controls may also be needed.

**Response: Comment 1-39, Mine Site to be Sampled**

See the response to Comment 1-10, Entire Mine Site Still Unreclaimed, for a discussion of the reclamation conducted on the entire mine site. The rest of the mine site, including the waste rock dumps, and the other pond on the back side mentioned by the commenter will be sampled starting in Spring 2000. The reclamation plan will be modified if any foreseeable situation of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area are identified.

See response to Comment 1-22, for additional information on sampling to be done on the mine site.

1                   MR. HUBBARD: Thank You Mr. Smith.

2                   Our next speaker is Peggy Graham. Peggy

3 Graham? Peggy Graham.

4                   PEGGY GRAHAM: Pass.

5                   MR. HUBBARD: Okay. Our next speaker

6 is Wally Moreau.

7                   WALLY MOREAU: Pass.

8                   MR. HUBBARD: Okay. Alice Priest.

9                   ALICE PRIEST: Alice will pass at this

10 time.

11                  MR. HUBBARD: Thank you.

12                  Those are all of the speakers that we

13 have who have signed up and requested to speak. Is

14 there anybody else who would like to offer comment

15 or testimony? Yes.

16                  CHARLOTTE WOODS: Good evening. My

17 name is Charlotte Woods. And before I say anything

18 else I would like to make sure that it's understood

19 that I realize that a lot of people have suffered

20 and a lot of people are suffering because of what

21 has already told what has happened here.

22                  What I would like to say, though, is I

23 would like to come to the aid of our beautiful town

24 of Libby, because I've lived here for ten years and

25 I'm from California, and I have no way of knowing

26 if I'm going to die of lung cancer or some other

27 disease because I have never worked at Grace,

28 obviously.



1                   However, I lived in California and I  
2   have inhaled an awful lot of carbon monoxide or the  
3   fumes down there. So I would like to please remind  
4   everyone that we do not need to traumatize this  
5   entire community now, and let's make it clear, too,  
6   that I would like, like anyone else, to have the  
7   place cleaned up so we can be sure that everything  
8   is going to be okay with us and our children and  
9   our grandchildren. But I fear that this is a  
10  terrible blow to our beautiful community, and we  
11  must not forget that there are other causes that do  
12  cause diseases and that it is not necessarily  
13  always what happened up here. People sometimes do  
14  not take care of themselves and, you know, other  
15  sorts of things. And I just want to make sure that  
16  we don't forget what a beautiful community we  
17  have.

18                   Thank you very much.

19                   MR. HUBBARD: Does anybody else wish to  
20  offer testimony? Yes, sir.

21                   JOHN BENEFIELD: I think I know just  
22  about everybody in this room. But most all of you  
23  were my friends at one time or another. I  
24  probably represented you because I was a business  
25  agent for 17, 18 years, somewhere around that  
25  neighborhood.

1-40

1 But anyway, I'm somewhat like that lady  
2 back there. I hate to see -- it saddens me to see  
3 a community split over something that's so obvious  
4 to me, or appears to be obvious to me, and  
5 something that should have been handled quite  
6 awhile ago, 15, 20 years ago perhaps, but at least  
7 in 1990 someone should have been able to put two  
8 and two together, looking around at all the  
9 families that are being disseminated and torn apart  
10 by this deadly disease from asbestos.

1-41

11 Everybody died from a heart failure.  
12 If they would put on those death certificates what  
13 the cause was for the heart failure, probably 4 or  
14 500 deaths in the county have been caused by  
15 asbestos.

**Response: Comment 1-40, Why Wasn't Anything Done Before?**

See response to Comment 1-33, for additional information about why nothing was done in the past.

**Response: Comment 1-41, Problem Documenting Deaths in Libby**

The medical certification section of the Montana Death Certificate asks for information on the causal and chronological sequence of events leading to death. Conditions leading directly to death and, for each, the interval between onset of the conditions and death are to be reported. This section of the death certificate is required by law to be completed by the attending physician or coroner.

1                   But what I don't want to see is the  
2 community completely split apart over this thing.  
3 I think that it's great that it's brought out in  
4 the open now. I think the people that did it  
5 should be shown a debt of gratitude and thanked,  
6 not ridiculed. And I think now is the time for all  
7 of us to get together and to work and get this  
8 thing solved instead of fighting one another.

9                   Thank you.

10                  MR. HUBBARD: Thank you,  
11 Mr. Benefield.

12                  Are there any others who wish to  
13 speak?

14                  BILLY BOB BOOTHMAN: My name is Billy  
15 Bob Boothman. I've lived in this country all my  
16 life, and they say that there's -- said years ago  
17 that this dust didn't hurt nobody. I seen my dad  
18 when he worked down there in the boxcars sliding  
19 that thing from one end to the other, and you  
20 couldn't see the man looking in the door, and they  
21 said it didn't bother him. But he died at about 57  
22 years old.

23                  And when I watched him die he'd hold  
24 his mouth open because he couldn't breathe, and it  
25 looked just like a bunch of maggots in there  
26 eating, in on the back of his throat. And they say  
27 it don't hurt.

1                   And I've got it, and they say that I  
2   got it when I was too young so they won't do  
3   nothing for me. I think it's a bunch of malarkey.  
4                   Thank you.  
5                   MR. HUBBARD: Thank you. Is there  
6   anyone else who wishes to speak at this time?  
7                   EVA THOMSON: I would just like to say  
8   to Charlotte. I'm Eva Thomson. But, anyway, you  
9   do not die of carbon monoxide, but you do die of  
10  asbestosis. And I feel sorry for you, Charlotte.  
11                  MR. HUBBARD: Thank you. Mr. Smith.  
12                  TERRY SMITH: I'd like to address the  
13  lady from California. Lady, in the '30s this was  
14  killing people. They never said anything. You  
15  think any of us would have went to work up there if  
16  we knew it was going to kill us? I don't think the  
17  people of this town knew that that mine or anything  
18  was going to kill most of us.  
19                  That's all I've got to say again.  
20                  MR. HUBBARD: Thank you, Mr. Smith.  
21                  I'd appreciate it if anybody who still  
22  wishes to speak, if you would direct your comments  
23  at the issue. Is there somebody else who wishes to  
24  speak at this time? Yes, sir.

1-42

1 DON KAEDING: I was wondering if they  
2 sectioned a hole through the floors in these  
3 buildings down here and checked the dust in them,  
4 if they did, found two, four feet in the industrial  
5 part, whether there's contamination, because some  
6 day when they put footings in, there's going to be  
7 carpenters working in that. And if there's  
8 contamination there they should find out now and  
9 get W.R. Grace to clean it up.

10 Thank you.

11 MR. HUBBARD: Thank you, sir.

12 Anybody else who wishes to speak at  
13 this time?

**Response: Comment 1-42, Sampling of All Areas in Libby**

See response to Comment 1-22, Testing Air, Water and Soil in the Area, for more information on the areas to be sampled in Libby. The EPA sample team conducted a thorough inspection of the Libby schools during the sampling event. DEQ will contact the EPA and recommend deeper sampling of the old mill site in town. Land use controls can be placed on the contaminated sites to warn future users that care should be exercised in any dirt moving work.

1                   JOHN BENEFIELD: Thanks. John  
2 Benefield. And I will address the issue. The  
3 issue is the bond -- how much is it, 66,000 (\$66,700)left,  
4 or whatever, on the table. And I think a lot of  
5 people here that have been speaking are addressing  
6 the issue. It has killed people over time and it's  
7 continuing. We don't know if it will kill people.

8  
9                   I feel bad for owners that own the  
10 property now with the bond. I don't know who is  
11 responsible for \$66,000. But all I got to say  
12 about it is, to say that that's okay, that's been  
13 perfectly reclaimed right there, and give them back  
14 all their money, I think the merits of the \$420,000  
15 bond was pretty ridiculous. Pretty much idealizes  
16 they can come in and tear up our land, take the  
17 property, millions of dollars, kill millions of  
18 people and the only thing it's worth is \$66,000  
19 again.

20                   And I'm saying if they vote on it right  
21 now I don't think it should be released. I don't  
22 think one more dollar should be released. I think  
23 the people that released the bond in the first  
24 place should be found as guilty and should be held  
25 that we'll reclaim that, too, because there hasn't  
26 been nothing done.



**Response: Comment 1-43, Grandfathering of Bond**

The bond was so low on the mine site because mines that were permitted before July 1, 1974 were grandfathered at a maximum of \$500/acre under the Metal Mine Reclamation Act. Newer mines permitted after July 1, 1974 are bonded at the actual cost of reclamation.

**Bond Release Concerns**

Please see the response to Comment 1-3, Bond Release Hazard Assessment, Comment 1-6, Tailings Pile Not Reclaimed, Comment 1-10, Entire Mine Site Still Unreclaimed, and Comment 1-29, Comparable Stability and Utility for an explanation of why the bond was released in the past. If an on-going hazard is identified at the mine site after the sampling is completed, the reclamation plan will be modified to correct the problem. The remaining \$66,700 bond will not be released until the DEQ is satisfied that the reclamation requirements of the MMRA are met.

1                   MR. HUBBARD: Thank you. Is there  
2 anybody else who wishes to speak? Yes, sir.

3                   JOHN RIDER: My name's John Rider. I'm  
4 a retired Forest Service person. I appreciate the  
5 State getting on this, even though we are tardy,  
6 and stuff like this. But having worked for a  
7 federal agency and then retired, when I moved from  
8 town to town -- and I moved, I think it was 16  
9 times in my career -- two things I looked at the  
10 community before I took the job. One was the  
11 school -- did you have a decent school for the kids  
12 -- and the other was environment. And if you don't  
13 have either one in this town it's going to die. So  
14 you've got to have a good and extensive program to  
15 make sure we get a clean bill of health.

1-44

16                   Thank you.

**Response: Comment 1-44, Thorough Investigation of Area Needed**

See response to Comment 1-22, Testing Air, Water and Soil in the Area, for information on the sampling to be done in the Libby area.

1                   MR. HUBBARD: Thank you, Mr. Rider.  
2                   Is there anyone else who wishes to  
3 speak at this time? Seeing no one else, I would  
4 like to close the hearing. But first of all, I  
5 want to thank you for your cooperation in making  
6 this a constructive and productive hearing. And I  
7 thank you for coming. And the hearing is now  
8 closed.  
9                   (Whereupon, the hearing was completed  
10 at 8:30 p.m.)

1     STATE OF MONTANA                             )  
   )     ss.  
2     COUNTY OF LINCOLN                             )  
3  
4                     I, CONNIE S. COSTANZA, do hereby  
5     certify that at the time and place heretofore  
6     mentioned in the caption of the foregoing matter, I  
7     was a Registered Professional Reporter and Notary  
8     Public for Montana; that at said time and place I  
9     reported in stenotype all testimony adduced and  
10    proceedings had in the foregoing matter; that  
11    thereafter my notes were reduced to typewriting and  
12    that the foregoing transcript consisting of 60  
13    typewritten pages is a true and correct transcript  
14    of all such testimony adduced and proceedings had  
15    and of the whole thereof.  
16                     WITNESS my hand at Polson, Montana, on  
17    this \_\_\_\_ day of December, 1999.  
18  
19  
20                     \_\_\_\_\_  
21                     CONNIE S. COSTANZA, CSR, RPR  
22                     Notary Public for Montana  
                      My Commission Expires: 7/08/2002  
23  
24  
25

**Document # 2**

Name: Billy Bob Bootham

Phone #:

Address: 1112 Fish Hatchery Road, Libby, MT 59923

Got dust too early??

2-1	{	- need to contact Roger Sullivan
		Pat Plantenberg referred Mr. Bootham to Roger Sullivan

**Response: Comment 2-1, General Comment**

The commenter was referred to Roger Sullivan at the public hearing for clarification of his concerns.

**Document # 3**

Name: Board of County Commissioners

Phone #: 406-293-7781

Address: Lincoln County, State of Montana, 512 California Ave, Libby MT 59923

September 2, 1999

Patrick Plantenberg  
Montana Dept. Of Environmental Quality  
P.O. Box 2000901  
Helena, MT 59620-0901

Dear Mr. Plantenberg:

We understand that your department is accepting public comments and requests for a public hearing on the application for reclamation bond release at the former W.R. Grace Mine near Libby.

Because of the adverse affects this mine had on the health of many of our residents, we feel it is very appropriate that a public hearing on this issue be held in Libby. By holding a hearing, the many questions and concerns of our residents could be addressed about the reclamation efforts at the site.

This is an important issue to the many former workers of the mine. Please send us more information about the bond release. We appreciate your strong consideration of our request to hold a public hearing in Libby on this important issue.

Sincerely,

Marianne B. Roose, Chair

Rita R. Windom, Member

John C. Konzen, Member

3-1



**Response: Comment 3-1, General Comment**

DEQ responded quickly to the request for a public hearing and coordinated all aspects of the hearing with local officials. DEQ appreciated the assistance of the Lincoln County officials in facilitating the hearing.

On February 2, 2000, the EPA and DEQ held a public meeting discussing the investigation to date and recent sample results. In addition, the meeting focused on future work.

In addition, the community of Libby has formed its own Community Advisory Group (CAG). The meetings allow an open podium for community questions, concerns and comments on the asbestos and mine reclamation issues. Interested persons are encouraged to attend these meetings and become part of the CAG.

#### **Document # 4**

Name: Lincoln County Health Board

Phone #:

All Members Present: Commissioner Marianne Roose, Chairman  
Commissioner Rita Windom  
Commissioner John Konzen  
Ron Anderson, County Sanitarian  
Karol Spas-Otte, County Health Nurse  
Dr. Brad Black, County Health Officer

The County Health Board convened to discuss recent W R Grace reclamation tour observations and to examine results of materials sampling for asbestos fibers from vermiculite ore product and waste remaining at the former export plant site.

Attending the meeting were several citizens concerned about asbestos related issues, City of Libby Mayor Berget, hospital Director Rick Paliga, and Representative Scott Orr. Many views were voiced and questions raised.

The Health Board asked the group to identify specific areas of concern that the investigative team should focus on. They are:

4-1

1. Ore presence throughout the community, specifically:
  - a. Home gardens
  - b. Export plant site
  - c. Railroad loading site and storage area upriver
  - d. The subdivision located on the railroad loading site
  - e. Home insulation utilizing vermiculite
  - f. Ambient air sampling in the Libby area
  - g. The mine site; waste dumps and mine

The Board agreed with these identified areas of concern and committed to pursuing a timely approach to the asbestos issue in Libby.

4-2

The concern of the Board is the potential for asbestos fiber resuspension in the Libby area. It is imperative that the issues of local public health concerns be addressed and that the public hearing on December 1, 1999 (concerning the reclamation bond release) be allowed to consider health issues.

The Board is also of the understanding that persons will be available at the public hearing that can, and will, make a commitment to the community that the public health issues will be properly addressed.

**Response: Comment 4-1, List of Sites in Community That Need to be Sampled**

See response to Comment 1-22, Testing Air, Water and Soil in the Area, for additional information on sampling to be done in the Libby area.

**Response: Comment 4-2, Asbestos Fibers in Libby Continue to be Airborne**

See responses to Comments 1-12 and 1-22 for additional information on sampling to be done to address airborne fibers in the Libby area.

**Document # 5**

Name: Bonnie Gestring

Address: Montana Environmental Information Center

December 1, 1999

Re: Comments to the Department of Environmental Quality concerning reclamation activities and asbestos contamination at the W.R. Grace mine in Libby, Montana.

Thank you for this opportunity to comment on the situation at the W.R. Grace mine. I have the following comments to submit for the public record.

1. First I'd like to comment on the underlying purpose for this meeting – the proposed bond release.

a) The Montana Metal Mine Reclamation Act (MMRA) requires that reclamation of a mine site "provide sufficient measures to ensure public safety and to prevent the pollution of air or water and the degradation of adjacent lands." 82-4-336 (8) MCA. It further states that a reclamation bond may not be released until these provisions have been fulfilled.

The provisions of this law have clearly not been met because the Department has failed to even assess the public health impacts of the mine site, let alone ensure public safety. No air quality monitoring has been conducted to evaluate whether asbestos fibers are being released at the mine through the erosion of mine tailings or other disturbed areas. Nor have any waste rock samples been collected from the tailings piles to determine the concentration of asbestos fibers available for reentrainment. A 1982 study conducted by the Environmental Protection Agency at the W.R. Grace mine entitled "Exposure Assessment for Asbestos Contaminated Vermiculite" documented that waste rock dumps are a significant source of asbestos fiber and that asbestos fibers are easily resuspended by wind and water and can be redistributed widely. EPA documents state that there is no safe level of asbestos exposure and that asbestos fibers are virtually indestructable.

Asbestos will continue to pose a potential health threat until the source of asbestos has been completely contained. In order to ensure public safety, a comprehensive sampling and monitoring program must be conducted to evaluate the potential health hazard presented by soil, air and water and the mine be properly reclaimed to prevent any further exposure.

**Response: Comment 5-1, MMRA Requirements for Reclamation**

See the complete response to Comment 1-25, MMRA Requirements for Reclamation, for a response to this comment.

**Response: Comment 5-2, Continued Sampling and Monitoring to Identify Potential Hazards**

See response to Comment 1-26, Continued Sampling and Monitoring to Identify Potential Hazards, for a response to the comment.

5-3

There is ample documented evidence that W.R. Grace was well aware of the health impacts of asbestos on mine workers and their family as early as the 1950s and yet failed to inform their workforce. With this demonstrated record of deceit, it would be entirely inappropriate for W.R. Grace, or their "experts" to play any role in the investigation, as they have recently offered to the state.

5-4

b. Montana's Metal Mine Reclamation Act also prohibits objectionable postmining groundwater discharges. W.R. Grace employees have witnessed the burial of numerous, indeterminate materials in the Glory Hole. Groundwater contamination is a significant concern because the Glory Hole is not capped, precipitation in the area is high, and the Glory Hole forms a depression in the mine site which will readily collect water. We ask that a long term groundwater sampling program be established, and measures be taken to address the problem if contamination is detected.

5-5

c. The MMRA also requires that disturbed land be reclaimed to comparable utility and stability as that of adjacent areas 82-4-336 (7) MCA. To date, reclamation at the W.R. Grace mine does not meet either of these requirements. Enormous erosion gullies are present in the waste rock piles and coarse tailings area. To provide for comparable stability, these areas should be recontoured, covered with topsoil and revegetated. The reclamation plan, as approved in 1971, states that forestry, wildlife and recreation are the land uses or the "utility" for which this area is to be reclaimed. With no stretch of the imagination could one say that this area could support these three uses.

In order to meet this provision of the MMRA, these areas should be recontoured; the entire mine site covered with topsoil and revegetated. DEQ has repeatedly

**Response: Comment 5-3, W R Grace Involvement in Process**

See response to Comment 1-27, W R Grace Involvement in Process for additional information on this concern.

**Response: Comment 5-4, Groundwater Monitoring Around Glory Hole**

See the response to Comment 1-28, Groundwater Monitoring Around Glory Hole, for additional information.

**Response: Comment 5-5, Comparable Stability and Utility**

See response to Comment 1-29, Comparable Stability and Utility, Comment 1-29, Post Mine Land Use, and Comment 1-30, Additional Recontouring and Soiling at Mine, for additional information.

stated that the original reclamation plan did not require the company to stockpile topsoil for use in reclamation. This is not an adequate excuse. The Department could and should have amended the reclamation plan to require the company to obtain topsoil for this purpose.

In 1992, the Department amended the mine's 1972 reclamation plan in order to authorize the routing of Rainy Creek over the tailings impoundment surface rather than permanently diverting the streams around the impoundment area as required in the original plan. The Department stated that the purpose for the amendment was that the reclamation plan approved in 1972 "lacked specifics required under today's regulations and policy." Furthermore, the agency stated that "the reclamation plan can be modified at any time when a field investigation identifies a potential problem." In a 1987 field inspection report, the Department noted the health problems at the mine site and that "tremolite is everywhere on surface soils." In the environmental assessment of the Rainy Creek reroutement, DEQ stated that: "The W.R. Grace orebody contains asbestiform material (tremolite). The presence of an asbestiform mineral associated with the vermiculite ore body was identified as a significant health hazard a number of years ago primarily through occupational exposure. The current air quality concern at this site relates primarily to wind erosion of tailings and other dust from disturbed or exposed areas as well as from road dust emissions."

The department clearly understood the health problems associated with asbestos and recognized the potential ongoing hazard that the mine site posed. The reclamation plan had already been amended once since mine closure in 1990. An amendment of the reclamation plan was warranted, and in fact, necessary to meet state law. In order to ensure public safety and to provide for reclamation of comparable utility and stability, the Department should have amended the plan to require the mine be covered with topsoil and revegetated with an appropriate mix of vegetation.

2. As to asbestos contamination outside of the mine permit area, we urge that a comprehensive evaluation be conducted to identify any potential ongoing health hazards and that prompt remediation occur to prevent any further exposure.

3. What hazards are presented by the enormous volumes of asbestos contained behind the tailings impoundment. Are asbestos fibers being transported beyond the impoundment?

4. While the highest priority is identifying and eliminating sources of asbestos contamination to prevent any further exposure, another important element that should not be lost in the process is determining why and how this situation was allowed to develop in the first place. W.R. Grace is ultimately responsible for the asbestos contamination, and its impacts on mine workers and the community. However, our governmental agencies also have a responsibility in their oversight capacity to act as the public's safety net -- to provide protection when something goes wrong.



**Response: Comment 5-6, Reclamation Plan Should Have Been Changed**

See response to Comment 1-31, Amending Reclamation Plan, for a response to the comment that the reclamation plan should have been changed. See the response to Comment 1-3, Bond Release Hazard Assessment, for a response to the comment about the potential for an on-going hazard from the mine site.

**Response: Comment 5-7, Additional Sampling in Libby Area**

See response to Comment 1-22, Testing Air, Water and Soil in the Area, for additional information on sampling to be conducted in the Libby area.

**Response: Comment 5-8, Air and Water Sampling in Impoundment Area**

See the response to Comment 1-3, Bond Release Hazard Assessment, for a response to the air and water monitoring that has been done to evaluate the potential risks from the impoundment. The sampling to be conducted in Spring 2000 will also address the concerns raised in the comment. If a hazard is identified, then a remediation plan will be developed with DEQ, EPA, and DNRC-DSS.

**Response: Comment 5-9, Why Wasn't Anything Done Before?**

See response to Comment 1-33, for an answer to your question.

I ask that an investigation be conducted by an independent third party to determine why there was a failure in regulatory oversight at the Libby mine. This is not an isolated incident. The State's inability to provide proper oversight at the Zortman/Landusky mine and the Kendall mine have created substantial liabilities for Montana citizens in recent years. There is a pattern of negligence that must end. With that in mind, I ask that the following questions be answered:

- \* Why didn't DEQ amend the original reclamation plan, as it did in 1992, to provide for a reclamation plan that meets current reclamation laws?
- \* Why did DEQ release the reclamation bonds in 1994 and 1997 without evaluating the public health risk associated with asbestos exposure? As the 1992 EA concerning the rerouting of Rainy Creek demonstrates, DEQ was well aware of the health hazards posed by asbestos prior to 1994 and 1997.
- \* What is DEQ doing to prevent a situation such as this from occurring once again?
- \* Why was there no follow up on the EPA's 1982 study which concluded that the mine presented a significant health hazard?
- \* Why were the State Board of Health inspection reports never revealed to the mine workers or legal action taken against the company when inspection reports revealed the overwhelming inadequacy of protective measures at the mine.

Sincerely,  
Bonnie Gestring  
Montana Environmental Information Center

## **Response: Comment 5-10, Regulatory Oversight at Libby**

### **Reclamation Laws**

DEQ, as the agency that assumed the MDSL regulatory functions, has been involved with the mine site since the passage of the MMRA in 1971. W R Grace applied for and received Operating Permit 00010 in 1971. The mine site had been mined since the 1920's. When the operating permit was issued 320 acres had already been disturbed and were grandfathered under MMRA.

The tailings impoundment was permitted in order to cleanup the Rainy Creek drainage which had been historically impacted by deposition of mine wastes and which had been classified as a C-1 stream because of those past impacts. Rainy Creek is probably cleaner today than it has been since the 1920's. If the sampling and health risk assessment beginning in Spring 2000, determines that the level of fibers is unacceptable to human or aquatic life, then an alternative plan for the impoundment must be developed.

The mine was permitted in 1971 without requirements for soil salvage and replacement, without requiring waste rock dumps to be reduced from the angle of repose and without any special requirements for Fleetwood Creek and Carney Creek. DEQ inspectors inspected the mine once a year as required by the MMRA. DEQ played an active role in the impoundment operation and design even though it was regulated by other federal and state regulatory programs. Air quality is regulated by the Air and Waste Management Bureau in DEQ (see below). Water quality is regulated by the Water Protection Bureau in DEQ (see below). Mine health and safety practices are regulated by other state and federal programs (see below). If inspectors observe air quality, water quality, or mine health and safety problems while inspecting the site under the reclamation laws, they are responsible for notifying the other agencies or bureaus.

See responses to Comment 1-3, Bond Release Hazard Assessment, Comment 1-6, Tailings Pile Not Reclaimed, Comment 1-10, Entire Mine Site Still Unreclaimed, and Comment 1-25, MMRA Requirements for Reclamation, for an explanation of DEQ activities during the reclamation process.

The W R Grace mine was the first major mine site reclaimed under the 1971 mine reclamation laws. As explained above in the responses to comments, DEQ concluded that the mine site did not pose a risk to public health and safety in its reclaimed state during previous bond releases. Sampling to be conducted starting in 2000, will identify any reclamation shortfalls that need to be addressed.

### **Water Quality Laws**

W. R. Grace applied for a permit to discharge wastewater to Rainy Creek in February 1971. In 1973 they changed from dry beneficiation of the ore to a wet process with a subsequent increase in the discharge of process water. Prior to this change, it is believed that tailings were washed down Rainy Creek in response to storm events. W R Grace received MPDES permit 1W-2 in March 1971 and an extension 1W-3 in November 1971. The permit expired in January 1972. At that time they had completed construction of a tailing impoundment which the DEQ considered a no discharge facility which no longer required an MPDES permit.



The impoundment does have an underdrain system. The underdrain has been sampled and asbestos fibers have been found to be less than the human health standard of 7 million fibers per liter identified in State of Montana WQB-7 water quality standards. One sampling event in 1992 did detect volatile organic compounds (VOC) above the applicable standards but water quality improved rapidly to non-detectable concentrations by 1999. No permit was needed from 1992 to 1999 because there was no standard for Rainy Creek, which is classified as C-1 (see below).

Rainy Creek was classified as a C-1 stream in 1971 (ARM, 17.30.609(1)(c)). The C-1 classification does not include drinking water as a beneficial use. This classification was made deliberately because the DEQ did not consider the drinking of water that may contain a waste as acceptable. Asbestos fibers have been detected in the tailing impoundment water as high as 200 million fibers per liter. This water discharges over the spillway during high water events. The spillway was constructed in 1993 as part of the closure and reclamation plan. Asbestos fibers do not have an aquatic life standard. Because drinking water is not a beneficial use of the stream, human health standards may not apply. Swimming (dermal contact) in water that contains asbestos fibers is not considered a health risk (Todd Damrow, State Epidemiologist, DPHHS, personal communication). The DEQ in conjunction with the EPA will sample all surface water and possibly fish, in the spring of 2000 to determine what permitting action and standards should apply.

Carney Creek is a tributary of Rainy Creek and is classified B-1 (ARM, 17.30.609(1)). The confluence of the two streams is below the tailing impoundment in Rainy Creek. A mine waste dump is located in Carney Creek, and asbestos fibers higher than the human health standard may be present in the stream. Sampling will take place in the spring of 2000. If fibers are detected or can reasonably be expected to be washed into the stream from the waste dump, an MPDES permit may be required or the discharge may have to be eliminated. This could be done by removing the waste material or diverting the stream in such a way as to prevent the contact with waste material.

Fleetwood Creek is also a tributary of Rainy Creek and is classified B-1 (ARM, 17.30.609(1)). The confluence of the two streams is in the tailing impoundment itself. Mine wastes from the milling process are located on the banks and in Fleetwood Creek and asbestos fibers higher than the human health standard may be present in the stream. Sampling will take place in the spring of 2000. An MPDES permit may be required or the discharge may have to be treated or eliminated. This could be done by removing the waste material or diverting the stream in such a way as to prevent the contact with waste material.

Impacts to the Kootenai River will be analyzed after additional monitoring is collected in the spring of 2000.

### **Air Quality Laws**

The regulatory programs established under the Clean Air Act of Montana are designed to protect public health and welfare. There is a clear distinction between public/ambient impacts and occupational hazards, which are regulated under other statutes (see Mine Health and Safety Laws below). Ambient air is outside of buildings where the public can be exposed.

Under the Clean Air Act of Montana, air quality permitting requirements for existing facilities became applicable in the early seventies. A series of about ten air quality permits were issued to W R



Grace over the years for various pieces of air pollution control equipment and operations including milling, concentrate drying, screening, storage, loadout and bagging.

The permits regulated primarily particulate emissions by setting emission and opacity limitations. Opacity refers to visual estimation of emissions. Asbestos is a particulate but was not regulated separately from total particulate probably because there was and is no federal or state ambient air quality standard for asbestos. There are also general air rules, which require adequate fugitive dust control measures such as road watering, chemical stabilization of disturbed or exposed areas and revegetation. Subsequent to the end of mining operations in 1990, the permits were revoked in February 1992. Further air quality program involvement is based on fugitive dust requirements.

Compliance History - A file review of air quality inspections of the operation indicated general compliance with the exception of one minor opacity violation at the dryer stack.

### **Mine Health and Safety Laws**

The Montana Department of Labor and Industry is the agency responsible for enforcing 50-72-101 et seq. MCA (Safety in Mines Other Than Coal). Regular inspections occurred by the department's mine inspectors as well as inspectors employed by the federal Mine Safety and Health Administration. As stated in 50-72-206 MCA, *"Each finding made and notice or order issued under this part shall be given promptly to the operator of the mine to which it pertains by the person making such finding or order, and all such findings, orders, and notices shall be in writing and shall be signed by the person making them."*

Because the mine has been closed since 1990, the actual inspection reports have been destroyed. See response to Comment 1-4, Industrial Hygiene Asbestos Concerns, for more information on mine health and safety laws (see also Attachment 4).

### **Regulation of the Zortman/Landusky and CR Kendall Mines**

The DEQ disagrees with the commenter's assertion that there has been a failure in regulatory oversight at the Zortman/Landusky and CR Kendall mines. This assertion is being addressed in more appropriate forums than the bond release process for W R Grace.

### **Amendment of the W R Grace's Reclamation Plan**

See response to Comment 1-31, Amending Reclamation Plan, and Comment 5-6, Reclamation Plan Should Have Been Changed, for a response to the question.

### **Why Did DEQ Release Bond Without Assessing Public Risk?**

Please see response to Comment 1-3, Bond Release Hazard Assessment, for DEQ's response to the question. DEQ would not have released the bond if the mine site presented an on-going risk to the public.





### **What is DEQ Doing to Prevent This From Reoccurring?**

The commenter is referred to the EIS and Health Risk Assessment that was completed on the Stansbury Holdings Corporation Western Vermiculite property near Hamilton in 1994. In reviewing that document and permitting process, the commenter will see that DEQ and the USFS assessed the public risks at that property because of known risks at the Libby mine. As other mine properties that may contain asbestiform minerals approach DEQ for mining permits, DEQ will review the geology and make a determination on the amount of information that is needed to address any potential risk from the asbestiform fibers in the operation.

### **Why Was There No Follow Up on the 1982 EPA Study That Identified the Hazard At The Libby Mine Site?**

DEQ did not have a copy of the study in its Libby Mine files even though the mine was permitted in 1971. The copy the commenter is referring to is a draft copy that may have had limited distribution. DEQ was aware of the hazards at the mine site as expressed in response to Comment 1-3, Bond Release Hazard Assessment. The 1982 study by the EPA would not have changed DEQ's conclusions on the bond releases. Sampling to be conducted in Spring 2000 will be site specific and will answer a lot of the questions about what needs to be done to eliminate any on-going risks at the site.

Assertions made in a recent article in the Helena Independent Record may provide some insight into why nothing has happened as a result of the 1982 EPA study (see Attachment 6).

### **Why Were the State Board of Health Reports Never Revealed to Mine Workers or Legal Action Taken Over the Inadequacy of Mine Protective Measures?**

Part of the answer to this question relates to the previous answer. It is difficult to reconstruct and substantiate historical decisions.

Access to governmental information varies throughout all levels of government and with the times. With a few exceptions regarding active legal actions and product confidentiality, DEQ's files are open to the public. The former State Board of Health's policy on releasing information is not known.

An insight into the Board's authority is revealed in the minutes for May 19, 1962, meeting:

"There was a short discussion of the duties and responsibilities of the Board under the Industrial Hygiene Law and the fact that the Board had no power with which to enforce the law."

The Board's Division of Disease Control, which administered the Industrial Hygiene Law, prepared a "confidential" Report of an Industrial Hygiene Study of the Zonolite Company, Libby, MT. It said no progress had been made to reduce dust levels at the "dry mill," and that the concentrations had increased since the same recommendations had been made in reports filed in 1956 and 1958. The report recommendations included:

"That immediate attention be given to reducing dust concentrations in the dry mill to the acceptable levels of 12 million particles per cubic foot of air. It is likely that if the dust



concentrations, in general, are reduced to 12 million particles per cubic foot of air (mppcf) that the fraction of the dust concentration which is asbestos will also be reduced to about the 5 million particle concentration recommended for asbestos."

The Board discussed the report with the mine's manager, who told the members how the company proposed to correct the situation. The manager ended the discussion by saying the board's recommendations had been "helpful."

The Board's minutes were open to the public for review.

See responses to Comment 1-4, Industrial Hygiene Asbestos Concerns, Comment 5-10, Mine Health and Safety Laws, and Attachment 4, MSHA Inspection Reports Summary at the W R Grace Mine, for more information on worker safety and health issues.

**Document # 6**

Name: Bruce Tipton

Phone #: 306-653-3903

Address: 6308 199<sup>th</sup> Street NE, Marysville, WA 98270

From: [brucef@brucef.seanet.com](mailto:brucef@brucef.seanet.com) [<mailto:brucef@brucef.seanet.com>] <<mailto:brucef@brucef.seanet.com>>

Sent: Monday, November22, 1999 6.27 PM

To: [jstimson@state.mt.us](mailto:jstimson@state.mt.us); [psmith@state.mt.us](mailto:psmith@state.mt.us); [cjones@state.mt.us](mailto:cjones@state.mt.us); [scooper@state.mt.us](mailto:scooper@state.mt.us); [bheidel@state.mt.us](mailto:bheidel@state.mt.us); [jhinshaw@state.mt.us](mailto:jhinshaw@state.mt.us); [mbruhn@state.mt.us](mailto:mbruhn@state.mt.us); [mbeer@state.mt.us](mailto:mbeer@state.mt.us); [scrispin@state.mt.us](mailto:scrispin@state.mt.us); [mtnhp@state.mt.us](mailto:mtnhp@state.mt.us); [tweisenburger@state.mt.us](mailto:tweisenburger@state.mt.us); [vwelsh@state.mt.us](mailto:vwelsh@state.mt.us); [duanderson@state.mt.us](mailto:duanderson@state.mt.us); [dhighness@state.mt.us](mailto:dhighness@state.mt.us); [emadej@state.mt.us](mailto:emadej@state.mt.us); [kgurrieri@state.mt.us](mailto:kgurrieri@state.mt.us); [dlund@state.mt.us](mailto:dlund@state.mt.us); [klarson@state.mt.us](mailto:klarson@state.mt.us); [gdaumiller@state.mt.us](mailto:gdaumiller@state.mt.us); [tchase@state.mt.us](mailto:tchase@state.mt.us);

Subject: WR Grace Co./Libby MT/Mass murder for profit

Please see:

<http://www.seattle-pi.com/uncivilaction/lib18.shtml>

<http://www.seattle-pi.com/uncivilaction/lib19.shtml>

<http://www.seattle-pi.com/national/libb22.shtml>

<http://www.seattle-pi.com/opinion/graced.shtml>

A pretty horrific story.

6-1

I am quite shocked, but not surprised, to find that your Montana State Environmental Information site does not contain ANY information on this story. Not even a link to the Seattle-pi story. One of the major points of the pi article is the cover-up by Montana officials.

I presume that the Grace Co. could have had any state employ who spoke out on the issue fired-or worse. Well, I think that the number of deaths and the number of future deaths are worse than being fired. Get a backbone!

Please add every scrap of information about this situation to your website, including all public information about any and all lawsuits filed against WR Grace. The public has a right to know these things!!!!

Please explain to me why Libby citizens are limited as to when they can even file a lawsuit against WR Grace-Does that company even control your courts????

Will the Libby area be off limits to tourists for the next 50 years? Will there be an environmental hazard health warning to tourists? Will the Kootenai River be closed to recreational activities for the next 50n years?

How far downstream does the health hazard extend?

This requires a national outcry as never heard before.

Do not trust EPA to uncover all. They are as guilty as anyone else and will be out to cover their own ass.

**Response: Comment 6-1, Why Libby Situation Not On State Webpage**

Up-to-date information about DEQ's involvement in the Libby area can be found on the department's website at [www.deq.state.mt.us/libby/index.htm](http://www.deq.state.mt.us/libby/index.htm).

I plead with each and every one of you to write President Clinton and demand that a federal criminal investigation be commenced. Here is what I wrote him after the first pi article. Please ask him to appoint a special independent prosecutor to head up the investigation. If we can afford to investigate Lewinski we can certainly afford to investigate mass murder for profit. Please forward this to everyone you know in Montana Government.

---

To: [president@whitehouse.gov](mailto:president@whitehouse.gov)  
From: [burcef@brucef.seanet.com](mailto:burcef@brucef.seanet.com) (Bruce Tipton)  
Subject: WR Grace Co./Libby MT/Murder for profit

Please see <http://www.seattle-pi.com/uncivilaction/lib18.shtml> and <http://www.seattle-pi.com/uncivilaction/lib19.shtml>  
A pretty horrific story.

Dear Mr. President Clinton,

Please refer the Libby asbestos situation to the US Attorney General for investigation as a huge conspiracy to commit mass murder for profit.

This is the sort of lethal corporate power that the WTO exposes the citizens of the world to! Environmental and Health regulations must be immune to the whims of the WTO and domestic corporate lobby groups!

Heads must roll at WR Grace Co. AND within city, state and federal agencies that knew and allowed this to go on.

“Uncivil action: A town left to die.

Asbestos from a now-closed mine near Libby, Montana, has killed 192 people and left at least 375 people with fatal illnesses. For the 30 years it owned the mine, the WR Grace Co. did not stop the tragedy, and neither did any government agency. And doctors say the people of Libby will keep dying for decades.”

seattle-pi Thursday, November 18, 1999.

“.....The WR Grace Co. knew, from the time it bought the Zonolite vermiculite mine in 1963, why the people in Libby were dying. But for the 30 years it owned the mine, the company did not stop it. Neither did the governments. Not the town of Libby, not Lincoln county. Not the state of Montana, not federal mining, health and environmental agencies, not anyone else charged with protecting the public health.

.....Dr. Alan Whitehouse, a lung specialist from Spokane and an expert in industrial disease, said another 12 to 15 people from Libby are being diagnosed with the diseases – asbestosis, mesothelioma, lung cancer – every month.” seattle-pi Thursday.



**Document # 7**

Name: Daniel E. DeShazer

Phone #: 406-293-5850

Address: 564 Terrace View Road, Libby, MT 59923

Dear Sir:

My name is Daniel E. DeShazer and I have lived in Lincoln County all my life. I am almost 65 years old and going on medicine. These days medicine is quite expensive and caters to the rich. I, like most other Seniors, may find it unaffordable. The DeShazer Clan was probably the hardest hit by asbestosis. I lost 3 Uncles and one Aunt to the effects or side effects of the disease and I have 2 Uncles and 3 Aunts who have it. I have several cousins who have it and a brother, Raymond DeShazer at Eureka, MT who has it. My brother cannot figure out how he got it and when he turned the bill into his insurance company they rejected it and told him to turn it over to Workman's Comp. Well, Workman's Comp rejected and asked him to prove where he got it. He had to pay a bill of over \$800.00 out of his pocket.

7-1

I talk like my Uncles did when they were my age, squeaky and short of breath. I may have the disease, my wife thinks she could have it. All my children could be affected and won't know until they reach my age. All my brothers could have it.

Years ago during and after World War II, my Uncles would bring pickup loads of Zonolite to my folks home to put on the lawn and garden and brothers and I got to shovel it around and rake it in the ground. Because we were small my Dad and Uncles would have us help insulate their homes and homes of their friends. We could crawl back to the eaves and pour it down the walls.

Our family always went out camping with our relatives and sometimes we rode in their cars. The fans would blow the stuff around inside the cars and we always got a good dose of it. My Uncles lived and parked their cars up Rainy Creek next to the mine so they were always coated with the mine dust. I have been exposed for over 50 years. We got more exposure from our homes and other homes in the Libby area.

7-2

I used to float the river and fish the mouth of Rainy Creek and always noticed the bottom feeding fish there were full of sores. They looked like Salmon at the end of their spawning cycle. The trout were deformed and many were sick and when they died, they were just flushed downstream. And this is a blue ribbon trout stream that smells like rotten fish when the river flow is lowered.



**Response: Comment 7-1, Health Effects to Those Who Didn't Work at the Mine**

See response to Comment 1-17, for information about the health studies to be conducted in the Libby area.

**Response: Comment 7-2, Testing Water and Fish in the Area**

See responses to Comments 1-21 and 1-22 for additional information on water and fish sampling to be conducted in Spring 2000.

- 7-3 { Some think that settling ponds are the answer to retain the filth from mining but it's not. The settling pond at Anaconda overflowed about 5 years ago and killed all the fish 25 miles down the Clarks Fork River. Asarco's Pond at Troy broke and killed thousands of fish in Lake Creek a few years ago. Now Noranda wants to build one on Libby Creek for my children and grandchildren to contend with.
- 7-4 { Over the last 20 years massive clear cuts have been made in Lincoln Co. Without trees to hold back the wind the dust particles from the mine were spread all over Libby. The trucks and cars that traveled Rainy Creek Road also sent the stuff into the air.
- 7-5 { Something should be put into the ground at the mine area to help the trees and grass grow. The Settling Pond should be cleared out; Rainy Creek should be cleaned out and also both sides of the river at the mouth of Rainy Creek.
- 7-6 { I know that Industry will try to get our Government to release them of all accountability and responsibility. This should never be allowed as many of our children and grand children could be effected and may not know until they are my age.
- 7-7 { The clean up not only should include the mine site but the town of Libby, even the old Champion mill site.
- 7-8 & 7-9 { The Reclamation Bond should not be released until all parties are satisfied. Homes should never ever be built at the mine site on Rainy Creek.

Thank you.

Daniel DeShazer  
564 Terrace View Road  
Libby, MT 59923

**Response: Comment 7-3, Tailings Pond Stability**

The tailings impoundment at W R Grace was constructed in 1971 to address historic impacts to the Rainy Creek drainage as well as to allow continued mining. Water quality in the Rainy Creek drainage below the impoundment is probably better today than it has been since the 1920s. See response to Comment 1-3, Bond Release Hazard Assessment, Public Safety Addressed in Reclamation Plan, for a discussion on the relative safety of the impoundment structure and how it is regulated by the DNRC-DSS.

**Response: Comment 7-4, Ambient Air Monitoring Plans/ Potential for Asbestos to Get to Libby/ Rainy Creek Road Soil Sampling**

See responses to Comments 1-12 and 1-22 for additional information on air sampling that has been conducted and air sampling to be conducted in Spring 2000.

**Response: Comment 7-5, Revegetation Issue**

See response to Comment 1-19, Problems with Plant Growth on Mill Tailings and Waste Rock, for a discussion of the plant growth problems at the mine site. If sampling to be conducted starting in Spring 2000, at the mine site indicates an on-going risk exists on the site, a remediation plan will be developed to address the issue.

**Tailings Impoundment Removal/Clean Out Rainy Creek and Kootenai River**

Sampling to be conducted starting in Spring 2000 will determine the hazards that exist and appropriate remediation plans will be developed to remove the risks.

**Response: Comment 7-6, Don't Release Industry From Liability**

The DEQ and EPA will administer their respective environmental health laws. If there are violations of the law and a responsible party (RP) can be identified, the agencies will expect the RP to take full responsibility for its actions.

**Response: Comment 7-7, List of Sites in Community That Need to be Sampled**

See response to Comment 1-14 for additional information on sites in Libby that will be sampled.

**Response: Comment 7-8, Bond Release**

DEQ is not going to release the bond until the site investigation is complete and remediation measures have been implemented as necessary.

**Response: Comment 7-9, Future Land Use on Old W R Grace Property**

Please see the response to Comment 1-38, Future Land Use on Old W R Grace Property, for a response on what can be done on the W R Grace Property to restrict future land uses if necessary.

**Document # 8**

Name: Don W. Wilkins

Phone #:

Address: P.O. Box 335, Libby, MT 59923

December 27, 1999

Dear Sir:

8-1

I am writing this letter in regards to the bond release on the WR Grace properties. I believe it would be unwise at this time to grant the release until a full investigation is done on possible exposures in the immediate and surrounding areas. As you are well aware teams of agencies are in the Libby area trying to discover what exposures, if any, are an ongoing threat to this community. At the time of the disclosure of evidence would be a good time to further discuss release of the bond.

Thank you.

Sincerely,  
Don W. Wilkins

**Response: Comment 8-1, Bond Release**

Please see the response to Comment 7-9, Bond Release, for a response about the bond release.

**Document # 9**

Name: Eugene Yahvah

Phone #: 406-293-5418

Address: 265 Kootenai Drive, Libby, MT 59923

9-1

I was shocked at the uninformed comments about the reclamation efforts by W.R. Grace on the Vermiculite mine. It is beyond my comprehension that people can say nothing has been done to reclaim the mine site. W.R. Grace spent \$4.5 to \$5 million in reclamation projects on the site.

Several years ago I was out with the state reclamation inspector. He had nothing but praise for the reclamation work done on the property. In fact, he said that it should be a model for other reclamation projects around the state.

I have worked on the property since 1995 as a Forestry Consultant, running property lines, marking leave trees, checking logging, and doing slash disposal work. During this time, I have never observed any blowing dust except on the road when the loggers were hauling timber. When the wind does blow, the prevailing winds blow from west to east, which is away from the city of Libby. It rarely blows from east to west and then it would have to blow over a mountain to get to the city. Most of the 1200 acre mining site has been seeded with clover and grass. The trees planted on these reclaimed sites have been heavily grazed by the large mule deer population and elk herds. This area has been closed to hunting many years. In today's forestry technology the trees would have to be protected with protector tubes and fertilized with nitrogen and potassium for optimum growth and protection. One day last summer I observed in the lower pond, two ospreys that have a permanent nest on the site, a beaver, ducks and a kingfisher. This pond has a viable population of fish. Does this sound like water that the fish would all die as was stated at the meeting?

I know that Kootenai Development Company has collected water samples, and practices weed control on the roads. The company has an aggressive erosion practice and has seeded the steep problem areas on the tailing slope.

The lawyer's pictures shown on the Wednesday meeting, were taken in late fall when vegetation is dry and dead. Some pictures were taken many years ago when the site had not been reclaimed. I will include some pictures showing the site at different times of the year.

I agree that scientific tests should be made on the property to see if there are any danger areas.

I firmly believe that the mining reclamation projects have been satisfactory completed.

Enclosures: Pictures background

**Response: Comment 9-1, Reclamation Has Been Successful**

Thank you for your comment and the pictures of the reclaimed mine area. Your advice on what is needed to enhance the tree growth will be evaluated.

See response to Comment 1-25, Potential for Asbestos Fibers Being Released Through Erosion of Mill Tailings and Other Disturbed Areas, for a discussion of reclamation on the site.

**Document # 10**

Name: Hazel Kieffer

Phone #: 406-293-7502

Address: 65 Manor Drive, Libby, MT 59923

I attended the meeting December 1, 1999 regarding the Bond release for Operating Permit 00010 Kootenai Development Co (formerly the WR Grace Vermiculite mine).

10-1

I do not believe the bond should be released because additional cleanup needs to be performed. From my understanding, Rainy Creek is above the toxicology level. That in itself is reason enough to not release the bond. Further testing is needed to determine the extent of the cleanup that WR Grace should be responsible for.

**Document # 11**

Name: John R. Righter

Phone # 406 – 295-5932

Address: P.O. Box 571, Troy, MT 59935

11-1

1. Testing & sampling program needs to cover the area under permit but also possible areas of impact – upwind – downwind – Libby – areas adjacent to mine and mill site even though they are outside the permitted area - down river?
2. Testing & sampling needs to include all seasons since tremolite can become airborne for an extended period of time. A minimum of 2 years since the dry summers can vary significantly from year to year.

11-2

3. Keep the facts public - there is a strong feeling that WR Grace – a 3.3 billion dollar industry has influenced public and other officials through their financial buying power.

11-3

4. This stuff is in a lot of houses, a program needs to be initiated to allow the home owners an opportunity to have this tested. A follow up program needs to be developed for the home owners, which would address how they can remove it if needed.

11-4

5. Keep this on the format(front) burner until the facts are available.



**Response: Comment 10-1, Bond Release and More Testing Needed**

See the response to Comment 7-8, Bond Release, for a response to the bond release issue. See the response to Comment 1-14, List of Sites in Community That Need to be Sampled, for a list of areas in Rainy Creek that will be sampled in Spring 2000.

**Response: Comment 11-1, Ambient Air Monitoring Plans/ Potential for Asbestos to Get to Libby**

See responses to Comments 1-14 and 1-22 for additional information on areas that will be sampled as part of the investigation.

**Response: Comment 11-2, Public Involvement in Process**

All the state and federal agencies involved with the Libby investigation are making efforts to ensure local public officials and the people in the Libby area are informed of what is going on, have access to the information derived from the studies, and have a voice in any future choices that may need to be made. See response to Comment 3-1, for more information on public involvement in the process.

**Response: Comment 11-3, List of Sites in Community That Need to be Sampled**

EPA has opened an office at 501 Mineral Ave in Libby. Both DEQ and EPA encourage all residents who wish to have their homes sampled to stop by the office and talk to a representative.

At this time a “follow up program” to address asbestos removal has not been developed. Currently, EPA and DEQ are in the process of developing an educational program that will address this issue. We are also in the process of determining which areas are potentially hazardous and will need to be remediated. However, until the extent of contamination is fully understood and potential dangers understood, residential asbestos removal will not occur. See response to Comments 1-12, 1-13, 1-22, and 1-25 for additional information.

**Response: Comment 11-4, Prioritize This Project**

DEQ's Director Mark Simonich formed a group of persons to work on the proposed bond release and asbestos investigation. The group includes: the person in charge of reviewing the proposal to release the bond, a project coordinator to work with EPA on its investigation, the DEQ's media manager and a project coordinator from the Director's Office. Additionally, these individuals are drawing on the expertise of a number of persons throughout several state and federal agencies as well as local officials.

- 11-5 { 6. Hold the remaining bond until you have all the facts. There is a lot of concern that the earlier release of \$ may have been premature.
- 11-6 { 7. One of Montana Senators has gone public saying Montana should use the tobacco money settlement to take care of the problem. I don't think this is – if there is a residual problem – a situation where the tax payer needs to pay the bill – WR Grace needs to step up and take care of it – not sure this can occur unless through litigation.

Please understand that there are numerous court documents that have placed the disease causing agents directly on WR Grace. Many cases have been settled out of court, with the defendant and plaintiff followed by an agreed “gag” stipulation. In 1999, WR Grace was convicted of wrongful death of worker’s spouse (died of cancer). I note these items to raise the awareness that we and the state are not dealing with a clean industry. Their track record shows that they have little concern for their employees, community and environment.

**Response: Comment 11-5, Bond Release**

Please see the response to Comment 7-8, Bond Release, for a statement about the bond release.

**Response: Comment 11-6, W R Grace Liability**

Sampling and monitoring will determine if there are problems, and, if so, how severe. Based on that information, responsible agencies, along with public review and comment, can formulate what needs to be done. It is at this point that decisions will have to be made regarding responsible parties and where the money should come from to pay the costs of any cleanup or stabilization activities.

Under both state and federal superfund laws, the agencies have the authority to require W R Grace, or other responsible parties, to pay for any cleanup that might be necessary.

The agencies involved with the investigation are still in the sampling and monitoring phase of the investigation.

See response to Comment 1-27, W R Grace Involvement in Process, for additional information.

**Document # 12**

File No./Name: Kootenai Development Corp.

September 7-8, 1999

Memo: to 00010 file

From: Patrick Plantenberg

Results of Conversation with Gayla Benefield, Libby, MT 293-5535

Gayla Called to complain about the proposed bond release at the Kootenai Development Company's property which is the former W. R. Grace vermiculite mine, Operating Permit 00010.

12- 1

She complained about the asbestos in the soil. The mine was an old asbestos mine when it was purchased.

12-2

She also complained about the air quality problems in town. There are second generation cases of asbestosis. I told her we need specifics of locations. She listed: railroad tracks, ball parks and swimming pool(s), asbestos test lab, area by hospital and old office.

I explained to Gayla that the sites off of the mine site would not fall under MMRA purview. I called Denise Martin of the DEQ Remediation Division. I told Gayla that I would contact Ed Thamke of the DEQ Enforcement Division, and Todd Damrow of the MT Dept. of Public Health and Human Services.

12-3

I called Todd Damrow (9/7), he recommended Fred Ramsey 444-4508, the State Chronic Disease Epidemiologist. Fred explained that the locals should contact the local Health Nurse first (Karol Spas-otte). She will need to look at medical records and make a case ascertainment.

On 9/8 I met with Fred Ramsey, Ed Thamke, and Warren McCullough. We concluded to do the hearing and take all comments and then refer them to DPHHS and DEQ Enforcement as needed.

File 00010.10

G:\emb\op\corres\pp\libbybenefieldroc.doc

**Response: Comment 12-1, Testing of Soil at the Mine Site**

See response to Comment 1-22, Testing Air, Water, and Soil in the Area, for a list of the sites that will be sampled beginning in Spring 2000.

**Response: Comment 12-2, List of Sites in Community That Need to be Sampled**

See response to Comment 1-14 for a list of sites in Libby that will be sampled in Spring 2000.

**Response: Comment 12-3, Case Ascertainment Process and Results to Date**

The caller was appropriately referred by Todd Damrow to Fred Ramsey who, at the time, was the state's chronic disease epidemiologist and, as such, responsible for the lead DPHHS role in responding to reports dealing with chronic disease conditions in the state. Fred explained that the public health system in Montana is set up by law such that local health departments have primacy over health matters in their jurisdiction, and therefore appropriately notified the caller to contact the local health department about the situation.

Presently, the DPHHS is working with the federal lead agencies, EPA and ATSDR, to provide the people in Libby with a medical screening and monitoring program. The results of the screening and monitoring will help determine the impact on public health in the community.

**Document # 13**

Name: Patick D. Vinion

Phone #: 406-293-3415

Address: 2261 US Hwy 2 South, Libby, MT 59923

To Whom It May Concern:

I would like to deeply express my concern about the release of the last bond at the W. R. Grace Mine.

13-1

{ It needs considerable clean up and restoration work done.

13-2

{ There also needs a problem addressed as the future disturbance of the land. Such as logging, excavating and especially the use of rock or fill from the area to other areas.

Sincerely,  
Patrick D. Vinion

**Response: Comment 13-1, More Reclamation Needed at Mine Site**

See response to Comment 1-6, Tailings Pile Not Reclaimed, and Comment 1-10, Entire Mine Site Unreclaimed, for a response to the amount of reclamation done on the site. Sampling to be conducted on the mine site starting in Spring 2000 will be used to document the potential of an on-going hazard on the mine site. If one is identified, then a remediation plan will be developed to deal with the issues.

**Response: Comment 13-2, Future Land Use on Old W R Grace Property**

See response to Comment 1-38, Future Land Use on Old W R Grace Property, for an explanation of the controls that can be placed on the property if a hazard is identified.

**Document # 14**

Name: Robbin Redman

Phone #:

Address: P.O. Box 746, Troy, MT 59935

Dear Mr. Plantenberg:

I recently attended the hearing that was held in Libby in early December. I do have a few things to say about the issues and I appreciate your listening.

14-1

My father worked up at W.R. Grace for 19 years, from 1957 to 1976. In 1976 he was put on permanent disability because of asbestosis. During his 19 years there he was exposed to large amounts of asbestos and as a result so was his family. My father died in July of 1998 after suffering a long, long time. Of the 6 people left living in my family 5 of us have been diagnosed with asbestosis. My youngest sister has not and we pray she never is. Right now we are suffering at differing levels of limitations but it is getting progressively worse every day.

During my father's years at the mine I remember playing in the stuff he would bring home for our garden, and also helping him in the garden as the years went by. I also remember riding in his pick-up and having the heater blowing and dust flying around. I also helped my mother with the laundry through the years. As you can see my family's exposure has been continuous for years.

14-2

I really hope that the tests you run around town show no asbestos danger, but until it is proven to be a safe place I don't believe the bond should be released. I also believe the true negligent party should be held accountable.



**Response: Comment 14-1, Continuing Threat of Asbestos Exposure Today**

See response to Comment 1-18, for a summary of the investigation being conducted in the Libby area to answer health related issues.

**Response: Comment 14-2, Bond Release**

See response to Comment 7-8, Bond Release, for a statement about the proposed bond release.

See response to Comment 11-6, W R Grace Liability, for information on how the agencies can ensure that the negligent party can be held accountable.

14-3

One thing I don't believe to be true is that the mine site is a non-issue. How can that be? I just can't comprehend that large amount of asbestos is not an issue if it has a few tufts of grass on it. I know the tailings pile will continue to erode and asbestos will continually be deposited into Rainy Creek and then in the Kootenai. I also know that the wind does occasionally blow down from the pile, it doesn't always blow East. It also seems the amount of asbestos that is harmful to a person isn't truly known, so how can the old mine site with it's millions of tons of asbestos not be an issue? It was said that development of the old mine site would not be

14-4

possible, that is good but how close can they develop? Would you want your family living close by it? The old mine site is an issue.

My family is one of many who has suffered and will suffer for decades to come because of this mine. I want the stuff cleaned up where it is found and I want the town protected from it in the future. Thanks for listening.

Sincerely,  
Robbin Redman

### **Document # 15**

Name: Terrie Noser

Phone #:

Address: 2233 Kootenai River Road, Libby, MT 59923

15-1

I am writing concerning the proposed release of the bond for reclamation of the former vermiculite mine site near Libby, Montana. I would like to request that the DEQ not release the final bond of \$66,700 until the EPA has determined that the mine site and surrounding area is not a public health risk. If the EPA investigation determines the area is not at risk, I see no reason why the final bond can not be released.

Thank you for your time in this manner.

**Response: Comment 14-3, Continued Sampling and Monitoring to Identify Risks**

See response to Comment 1-26, Continued Monitoring to Identify Risks, for a statement about the sampling that will be done to address your concerns with the mine site.

**Response: Comment 14-4, Future Land Use on Old W R Grace Property**

See response to Comment 1-38, Future Land Use on Old W R Grace Property, for an explanation of what can be done if a risk is identified on the old mine site.

**Response: Comment 15-1, Bond Release**

See response to Comment 7-8, Bond Release, for a statement about the proposed bond release.

**Document # 16**

Name: Warren Norton - AWMB

Phone : 444-5281

Address: AW/P&C, Metcalf Bldg

16-1

Ms. Benefield called the Montana office of EPA concerned about continuing asbestos problems from the W.R. Grace “in town” plant, and the mine site. I contacted Ms. Benefield on 9/14/99. She explained that she felt that the asbestos problems from the vermiculite mine have not been adequately addressed. She was also concerned with the in town bagging plant. She felt that no testing had been done around that facility to determine the asbestos hazard left over in the soil. She said that there are ball fields and playgrounds in the area. Ms. Benefield’s parents have both died of asbestos related disease and she is concerned for the health of the entire valley.

**Response: Comment 16-1, List of Sites in Community That Need to be Sampled**

See responses to Comments 1-12, 1-13, 1-14, 1-22, and 1-25 for additional information.

**Document # 17**

Name: Mike Ray

Phone: 406-293-8704

Address: P.O. Box 738, 317 Mineral Avenue, Libby, MT 59923

Dear Pat,

This note is in response to your request for comments concerning the reclamation of the mine site in Libby.

I was in charge of the demolition and the reclamation for W.R. Grace so I have some insight into what is there.

First of all, the mine dumps were contoured to slope the storm water runoff to one location on each dump face. Then each discharge point was armored to keep it from eroding. So far we have not had to repair one of these locations.

Once we were done contouring the slopes and the "rough" spots in the mine we hydro-seeded it using approximately 30 pounds of live seed per acre. Our intent was to have grass growing everywhere even if there was a poor germination rate. The germination rate was good and there is grass growing everywhere but on the rock faces. To help stabilize the dump faces many thousand shrubs and bushes were hand planted on them. They were a species that was suggested by a botanist connected with the consulting firm we were using at time. We even seeded the haul roads in the mine. They also are growing.

In order to reclaim and stabilize the coarse tails pile we hand seeded it all and then planted trees and shrubs on the face in approximately 50' intervals. A dozer was used to create impressions that allowed moisture to collect and for the small plants to be planted. In each of these dozer blade impressions we planted a mixture of ponderosa pine and shrubs. There was always three plants in each impression. In addition we placed fertilizer pellets in the bottom of each hole.

Most of the material that was demolished was sold as scrap to various places. That which was not sold, was buried in the Glory Hole. Nothing went into this hole that was not allowed to go into a Class II landfill.

In all the days I worked there (13 years) I never witnessed a dust cloud coming off the mountain or off the tails pile.

Each month, we would take air samples. We would take personnel and area samples at different locations on a rotating basis. Our trigger value was always half what the MSHA standard was for asbestos at the time. Even with this we rarely had a bad sample. Rarely did we have any area samples that showed any detection at all. There was never a problem with the sample results so there was never a reason to be concerned about Libby's air. If we could

17-1

**Response: Comment 17-1, Reclamation Completed to Date By the Company**

Thank you for your comment. It helps clarify the reclamation performed by W R Grace at the mine site.

not generate a bad sample while the mine was operating then what would lead anyone to be concerned over the air quality 7 miles away?

When Grace was in the process of shutting down the question was raised over the dust that might be raised on the haul road to mine that goes along Rainy Creek. As a result, MT DEQ (or NIOSH) took a set of air samples during June, July and August of 1991 and 1992. Those results were negative. We thought that issue had been put to bed.

During the shutdown water samples were taken of the creeks around the mine. At first it was quarterly sampling and then semi-annual sampling and then annual and finally, after the purchase by Kootenai Development, the sampling was no longer required because of the continuing improvement in water quality. We thought that issue had been put to bed.

In response to the health issues of the employees Grace continued to improve the working conditions. In 1973 the wet mill was put on line. Showers were built into the new wet mill. a no smoking policy was instituted for everyone that worked at the mine. It became a condition of employment. In the mid-70's a full time environmental engineer was hired to establish a air sampling program and to determine engineering solutions to any problem areas identified. In 1981 a lunchroom was built for the employees on the shop side of the hill to have a clean place to have lunch. Showers were included in the design of that structure. In the mid-80's a requirement was issued that everyone must change clothes before going home at night. A laundry facility was installed to wash the clothes at the mine so they did not have to be washed at home. Most people choose to wear coveralls that were then washed at the mine.

I am sorry that so much bogus information has been released about the mine and the company and the reclamation to accomplish agendas that have nothing to do with any of them. It is a shame that all the information that is known to the general public is what is read in papers that have been written by such irresponsible reporters. They may have many people wondering about the issue, but a bad idea, believed by a lot of people, is still a bad idea.

Thank you for this opportunity to tell the rest of the story.

Michael D. Ray, P.E.  
P.O. Box 738  
Libby, MT 59923





**Document # 18**

Name: Athena Bradshaw Phone #: 406-295-9603(Hse) / 406-293-4502

Address: P.O. Box 1121, Troy, MT 59935

To Whom It May Concern:

18-1

As a citizen and taxpayer in Lincoln County, I am concerned about the final BOND RELEASE, at the old Rainy Creek property, that was previously owned by W.R. GRACE.

I have two children and lived in Libby five years, prior to moving to the Troy area. There should be EXTENSIVE further investigation, before any bond release is issued.

I am personally aware of numerous ill people (some terminal) that have had a direct connection to the Zonolite mine. I have also attended funerals.

Please do not give the bond release issue the "rug sweep" or you will not have heard the last of the citizens from Lincoln County. At least, NOT this one.

Thank You,

Athena Bradshaw  
P.O. Box 1121  
Troy, MT 59935

(405) 295-9603  
work (406) 293-4502

**Response: Comment 18-1, Bond Release**

See response to Comment 7-8, Bond Release, for a statement about the proposed bond release.

**Document # 19**

Name: Don W. Whitson

Phone #: 406-293-7302

Address: P.O. Box 364, Libby, MT 59923

To Whom This May Concern:

Isn't it a little ironic that we Libbyites were crowded into a building that was under fire not so long ago over some of the same issues – "asbestos". Broken floor tile as well as ceiling tile falling in and not to mention all steam pipes wrapped in the same material. They've all breathed deeply of the same stuff, not to mention all the other hazardous materials and chemicals either on the job or during "War". Is this the right thing to do to try to sue the companies that were our "Bread and Butter" a few years back? It seems that its only a few of certain caliber people that get it started. The attorneys pick up on the rest of it.

It's really too bad that their lawsuit money can't be spread around in the form of cheaper and better Health Insurance and Coverage for all of us "Montanans". It's also a timely thing that our Governor will be here during one of our "Boil Orders" for the drinking water for the City of Libby which they do not and have not ever refunded anyone during Billing time – Hope he gets thirsty.

Now, about the reclamation on Vermiculite Mtn. - It looks about as good as anything I've seen elsewhere and doesn't look any worse than the surrounding countryside that it is sitting in – a Sea of Clearcuts. It would be a mistake to put anything except what was there before on that mountain ever again. Now, beware of that old building at 501 Mineral Ave. It probably has lots of nasty stuff in the walls, ceiling and floor. Oh yes, and by the way, see if you can figure out a way to pay for all of this without taxing all of us poor folks out of our homes and state.

19-1

**Response: Comment 19-1, Comment on Bond Release**

DEQ appreciates your comments. The bond will not be released before all the sampling is completed and evaluated. If any hazards or other problems are identified, a remediation plan will be developed. W R Grace is not responsible for some of the asbestos sources in the Memorial Gym. W R Grace may be responsible for many of the other sources of asbestos, and then would be responsible for the cleanup throughout Libby area under state and federal superfund laws.

**Document # 20**

**Name: Jack W. Wolter**

Mr. Mark A. Simonich  
Director  
Montana Department of Environmental Quality  
1520 West Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901

December 27, 1999

Dear Mark,

First let me thank you for the opportunity to extend Kootenai Development's position on the bond release for operating permit number 00010. Kootenai Development Company or KDC acquired this permit along with the mining property from W.R. Grace & Co. at year end 1994. As the Grace officer in charge of this operation and reclamation project prior to sale I developed a unique understanding of this property over the past quarter century.

Since there were no clearly defined requirements for acceptable reclamation Grace began establishing plans in the early 1980's to determine what would be acceptable. Tree planting began on Knoll #3 resulting in the release of 14 acres in 1988. Working closely with State of Montana personnel additional trees were planted and grass seeded resulting in 160 acres being released in 1994. KDC made it a practice to closely adhere to the guidelines and direction established by the state in continuing these efforts which resulted in the release of 900 acres in 1997.

Since acquisition KDC has followed selective logging practices to timber the property. Under the close scrutiny of Mr. Gene Yavah (Yahvah) a highly regarded local professional forester the highest quality seed stock has been marked and saved for forest regeneration. For the forth coming year several acres of timber land that is now over grown with small stock will be thinned to maximize commercial growth and aesthetics. New tree plantings on the coarse tailings slope while slow to early growth can now be seen with the naked eye from the access road. Grass mixtures as recommended by the state has been over sown throughout the old mine area and continues to thrive.

It should be noted that shortly after the land was purchased by KDC, an old solid waste site was discovered. This site was reported to the state and with both state and professional experts this site was effectively cleaned-up and all waste material disposed according to state and federal guidelines.

During the past 5 years KDC has not only met it's requirements for reclamation but weed control as well. At the request of the state, annual spraying for eradication of noxious

20-1



20-1

weeds has been accomplished even though near by public and private sites have failed to follow the same practices.

KDC has not made any specific plan for future land use. During our stewardship wild life and tree growth have been greatly enhanced. However, we do not wish to foreclose future opportunities but be able to be responsible citizens and land owners in the Libby community. While we intend to cooperate in all ways with local, state and federal agencies, we believe we have met out obligations for final bond release.

Mark it was a personal pleasure meeting you and your staff. I would be remiss not to thank Mr. Patrick Plantenberg for his many years of dedicated effort in working with KDC and it's predecessors on this project.

Yours Very Truly,  
Jack W. Wolter



**Response: Comment 20-1, Reclamation Completed to Date By the Company**

Thank you for your comment. It helps clarify the reclamation performed by W R Grace at the mine site.